Office - Supreme Court, U.S.
FILED
JUN 17 1983
ALEXANDER L. STEVAS,
CLERK

No. 82-1401

IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

IAIN CALDER and JOHN SOUTH,
Appellants,

v.

SHIRLEY JONES,
Appellee.

Appeal from the California Court of Appeal, Second Appellate District

---

JOINT APPENDIX

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APPEAL DOCKETED FEBRUARY 22, 1983
JURISDICTION POSTPONED APRIL 18, 1983

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DOCKET ENTRIES

SUPERIOR COURT OF LOS ANGELES COUNTY

C 305009

JONES SHIRLEY, *et al.*
NATIONAL ENQUIRER, *et al.*

HAYES-HUME
Rogers-Wells
Williams & Connolly 9-16-81

Nature of Action: Misc Civil Complaint— Money Involved Code 0601

Reporter

Reporter

Year	Month	Day	PROCEEDINGS	FEES
1979	Nov	20	COMPLAINT FILED AND SUMMONS ISSUED	51.00
79	Dec	20	National Enquirer, Inc. ans. to comp. (Rogers)	36—
80	Mar	28	Plff mo to compel prod of docs. for facts/4-28-80 9:00 D80	
80	Apr	23	Plff ntc of mo to compel prod of docs 5/13/80 1:00 D-80	
80	Apr	28	Mo O/C D80	
80	Apr	29	Plff NTC of mo to Compel prod of docs 5/14/80 9:00 D-80	
80	May	5	Deft ARA Services Ans (Rogers)	36—
80	May	13	Mo O/C D80	
80	May	8	Table/Copies of authorities other than Calif Cases	

Year	Month	Day	PROCEEDINGS	FEES
80	May	8	P&A in Opposit to mo of Plff	
80	May	8	Dec & Affidavit in support of Opposit to mo to compel disclosure of confidential sources	
80	May	9	Plff reply memo to deft Opposit & mo to compel disclosure, suppl decl,	
80	May	14	Mo den D80	
80	Jun	11	Plffs. Mo. for ord. compel Ans. to ques Propounded at depsn. 7-2-80 9:00 D-80	
80	Jun	11	Stipulation	
80	June	11	Proof of Service by Mail	
80	Jul	2	Mo O/C D80	
81	4	17	Ntc of Mo for order permitting videotape recording of depo & P&A 4/27/81 9AM D80	12—
81	4	17	Order	
81	4	17	Stip for ord shortening time	
81	4	21	Proof of service	
81	4	23	Defts P&A in opp to Mo	
81	4	27	Mo grtd D80	
81	May	4	Order permitting Videotape recording of depo D80	
81	5	1	John South Iain Calder Ntc of Mot to quash service of Summons & Complt P/A Affidavits in support there of 5/18/81 9AM D-80 (Rogers)	97—
81	May	13	Deft John South & Iain Calder Ntc of Mo to Quash Service of Summons 6-2-81 9 AM Dept 80	12—
81	May	18	Mo O/C D80	

Year	Month	Day	PROCEEDINGS	FEES
81	6	2	Mo cont 8/5/81 9AM D80	
81	Jul	17	Deft Ntc of Hrg on application to appear as counsel Pro Hac Vice 8-3-81 900 D-81	12—
81	July	17	Deft substitution of atty. (Williams) Deft Iain Calder	
81	July	17	Deft. National Enquirer substitution of atty. (Williams)	
81	July	17	Deft. John South substitution of atty. (Williams)	
81	8	3	Mot grtd D80	
81	8	5	Mot to stand submitted D-80	
81	4	28	Req to Produce documents, inspection	
81	Sep	16	Deft sub of Atty (Connally)	
81	Aug	5	Reply to suppl P&A	
81	Jul	29	Reply to suppl mem in suppt of Mo	
81	Aug	5	Proof of service	
81	Jul	15	Suppl P&A in oppo to mo	
81	Jul	15	Attachments to suppl P&A	
81	May	28	Decl in suppt of oppo to mo (3)	
81	Jul	15	Suppl memo in suppt of Mo	
81	Oct	2	Submitted ruling, mo grtd D80	
81	May	28	Oppo to mo	
81	Oct	2	Memorandum of decision	
81	10	13	Plffs' OSC re deposition & for reasonable expenses & atty's fees 11-10-81 9AM D-80	12—
81	10	13	Plffs' decl re contempt	

Year	Month	Day	PROCEEDINGS	FEES
81	10	13	Plffs' decl in support of OSC	
81	10	15	AT ISSUE MEMORANDUM FILED	
81	Oct	13	Proof of svc of notice of taking depsn etc	
81	Oct	27	OSC re deposition & for reasonable expenses & atty fees 11-30-81 9:00 D80 Memo of P&A in suppt of this courts issuance of an OSC Decl re contempt Decl of K.W. May	12—
81	Oct	28	Notice of Appeal & design of record on appeal Ntc of Mot 11-25-81 9:00 D80	
81	10	28	in support of motion for answers to inter 11-25-81 9AM D80	
81	10	28	declarations in support of motions to compel answers to interrogatories 11-25-81 9AM D80	
81	10	28	NOM & M for prod of docus	
81	11	3	Additional designation of record	12—

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DOCKET ENTRIES

[COURT OF APPEAL
OF THE STATE OF CALIFORNIA]
Second Appellate District
LOS ANGELES County

Civil No. 65403

CIV 65403

ELI CHERNOW, JUDGE — C 305009

SHIRLEY JONES, *etal.*, *Aplts*	HAYES & HUME 132 So. Rodeo Dr. Beverly Hills, Ca. 90212
v.	
NATIONAL ENQUIRER, *etc., et al., defts & resps*	WILLIAMS & CONNOLLY 839 17th St., N.W. Washington, D.C. 20006 & SELVIN & WEINER 1900 Ave. of the Stars #2400, LA 90067
	Assigned To DIVISION ONE

DATE	PROCEEDINGS
May 18 1982	FILED RECORD C2 R1 APPEAL FROM Ord 10-28-81 #6540
Jun 17 1982	FILED APPELLANT'S OPENING BRIEF
Jun 21 1982	*Assigned to* DIVISION ONE RB 8-31-82
Sep 2 1982	FILED RESPONDENT'S BRIEF
Sep 21 1982	FILED APPELLANT'S REPLY BRIEF
Nov 5 1982	ORDERED ON CALENDAR Nov. 23, 1982—9 A.M.

DATE	PROCEEDINGS
Nov 23 1982	ARGUED AND SUBMITTED 138 C.A. 3d 128
Dec 15 1982	The order granting motion to quash service of process is reversed. (CFP) 21 pages Lillie, J. Spencer, P.J. Dalsimer, J. Petition for Hearing filed in Supreme Court
Feb 10 1983	Hearing denied by Supreme Court
Feb 14 1983	REMITTITUR ISSUED
Feb 16 1983	Filed Notice of Appeal to U.S. Supreme Court
Apr 21 1983	Filed certified copy of U.S. Supreme Court order postponing jurisdiction in the above-entitled case to the hearing of the case on the merits.

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Attorneys for Plaintiffs

SUPERIOR COURT
OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

Case No. C305009

SHIRLEY JONES and MARTY INGELS,
Plaintiffs,

vs.

NATIONAL ENQUIRER, INC., a Florida corporation; IAIN CALDER; JOHN SOUTH; SUNSET NEWS COMPANY, a California corporation; DOES 1 through 80, inclusive,
Defendants.

[Filed Nov. 20, 1979]

COMPLAINT FOR LIBEL; INVASION OF PRIVACY; INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

COMES NOW plaintiffs and for causes of action against defendants, and each of them, allege as follows:

1. At all times herein mentioned, defendant National Enquirer, Inc. was a Florida corporation authorized to do business and doing business in the State of California, County of Los Angeles. Defendant National Enquirer, Inc. at all times herein mentioned transacted business in the County of Los Angeles, State of California.

2. Defendant National Enquirer, Inc., publishes a weekly periodical of national circulation, which periodical is distributed and sold in the County of Los Angeles, State of California. In particular, the October 9, 1979

edition of the National Enquirer was sold and distributed in the County of Los Angeles, State of California.

3. Defendant Iain Calder (hereinafter "Calder") was at all times herein mentioned the editor of the National Enquirer.

4. Plaintiffs are informed and believe and on that basis allege that at all times mentioned herein defendant John South (hereinafter "South") was a writer employed by the National Enquirer.

5. Plaintiffs are informed and believe, and on that basis allege that at all times mentioned herein defendant Sunset News Company was a California corporation doing business in the County of Los Angeles and having its principal place of business in the County of Los Angeles, State of California. Defendant Sunset News Company is the distributor of the National Enquirer.

6. Plaintiffs are informed and believe, and on that basis allege that at all times mentioned herein and in doing the acts hereinafter set forth, defendants Calder and South were acting by virtue of their own motives as individuals and also were the agents and employees of defendant National Enquirer, Inc., and in doing the acts herein alleged were acting within the course and scope of their employment and all acts done by defendants Calder and South were accepted and ratified by defendant National Enquirer, Inc.

7. The true names and capacities of defendants sued herein as DOES 1 through 80 are unknown to plaintiffs at this time. Plaintiffs will seek leave of court to amend this Complaint to allege their true names and capacities at such time as they are ascertained. Doing the things alleged herein each defendant was acting as an agent of the other and was in the scope and course of said agency.

8. At all times herein mentioned plaintiffs, Shirley Jones and Marty Ingels have been well known and well

recognized by numerous and diverse citizens and people of the County of Los Angeles and, in fact, of the entire nation and plaintiffs at all said times have enjoyed good names and reputations both personally and in their occupation as professional entertainers.

9. On October 9, 1979, defendants, and each of them, printed, published and circulated, or caused to be printed, published and circulated, in the National Enquirer a libelous and defamatory article concerning plaintiffs. A copy of said article is attached hereto, marked Exhibit "A" and incorporated herein by reference. Said article is false, untrue, libelous and defamatory.

10. Further, the publication as alleged in paragraph 9 hereinabove, made plaintiffs appear before the public in an objectionable false light, or false position otherwise than as they are.

11. Plaintiffs are informed and believe, and on that basis allege that said publication was made by defendants with evil motive and malice, wilfully and wrongfully with the intent to injure, disgrace and defame plaintiffs, place them in a false light and intentionally cause them to suffer humiliation, mental anguish, and emotional and physical distress and with wanton and reckless disregard for the truth or falsity of the statements made.

12. On October 21, 1979, pursuant to California Civil Code Section 48(a), plaintiffs caused to be served upon defendants a Demand for Correction.

13. Defendants have failed to publish a Correction within the time and manner provided in California Civil Code Section 48(a).

14. Further, defendants and each of them in their outrageous actions directed toward plaintiffs, both prior to and subsequent to the publication of said article, caused plaintiffs great emotional distress, humiliation and suffering.

15. As a direct and proximate result of the publication of said article by defendants, plaintiffs have incurred special damages. All of the special damages incurred by plaintiffs are unknown at this time and plaintiffs will seek leave of Court to amend this Complaint when said damages have been ascertained.

16. As a direct and proximate result of the publication of said article by defendants, plaintiffs have suffered great damages for loss of reputation, shame, mortification, mental anguish and emotional and physical distress, and hurt feelings in the amount of $10,000,000.00.

17. As a result of the acts of defendants as aforementioned, plaintiffs are entitled to exemplary damages in the amount of $10,000,000.00.

WHEREFORE, plaintiffs pray damages as follows:

1. For special damages in an amount to be ascertained;

2. For general damages in the amount of $10,000,000.00;

3. For exemplary damages in the amount of $10,000,-000.00;

4. For attorney's fees provided for in California Code of Civil Procedure, Section 836;

5. For costs of suit incurred herein;

6. For prejudgment interest; and

7. For such other and further relief as to the Court may seem just and proper.

DATED: November 15, 1979

HAYES & HUME
A Professional Corporation

By: /s/ Barry B. Langberg
BARRY B. LANGBERG
PAUL S. ABLON
Attorneys for Plaintiffs

EXIBIT [*sic*] "A"

HUSBAND'S BIZARRE BEHAVIOR IS DRIVING SHIRLEY JONES TO DRINK

Shirley Jones' husband, Marty Ingels, is acting like a crazy man—and Shirley has been driven to drink by his bizarre behavior, insiders say.

They also reveal that Ingels—a producer of TV commercials—has terrorized his staff, cheated stars, outraged advertisers and scandalized Hollywood.

Sadly, they charge that it's gotten so bad that Shirley is barely able to make it through the day. And millions of fans of her new TV show, "Shirley," don't realize that the seemingly bubbly star is really crying on the inside.

'By 3 in the Afternoon She's a Crying Drunk'

"Marty Ingels has driven Shirley to drink," charged an inside source who visited the set and spoke with crew members.

"She pours down vodka so fast that at first the crew thought she was drinking water.

"She starts blurring her lines and by 3 o'clock in the afternoon she's a crying drunk and they have to stop shooting."

Shirley—one of the most beloved performers in Hollywood—is hitting the bottle "because of the pressure Marty's putting on her to sign over her home to him and to let him take her teenage son, Patrick Cassidy, into show business," the source told The ENQUIRER.

"Every day Ingels calls her on the set and they have screaming fights over the phone. The other day she was shouting, 'Leave Patrick alone. I want him to go to school and make something of himself—I don't want him to be a teenage idol!' "

Former staffers say Ingels, who brags about owning seven guns, has even gone so far as to threaten them with violence.

"When I argued with him he told me I'd never walk the face of the earth again," confided one frightened former employee. "He told me he was going to blow up my face. Once I even had to call my attorney because I thought he was going to come over and kill me. The guy is a crazy person."

[Photograph Omitted in Printing]

HITTING THE BOOZE: Shirley drinks because of the pressure that husband Marty Ingels—pictured with her here—puts on her, says an insider. "The man is a maniac," says one producer.

Said another: "He still owes me a lot of money. He promises he'll make it up to you—but he never does. Instead, he hires and fires so he won't have to pay."

Though Ingels is only a minor producer of commercials, he has one of the most notorious casting couches in all of Hollywood.

"I was furious to find that I was the victim of a classic casting couch routine," complained one young would-be actress.

"He told me I could have the part in a movie he said he was doing if I would go to bed with him—I told him to go jump in the lake."

Even established stars are beginning to feel as if they, too, have been dragged over the famous couch.

"Steve Allen, Gary Burghoff and Esther Rolle were all going to sue him over appearances in a TV program for the Lutheran Church," recalled one insider. "The church paid Ingels $60,000—but he only passed on $30,000 to the stars."

Shocked and hurt by the obvious rip-off attempt, Allen wrote a personal letter to Ingels which read, in part: "Marty, I can't believe that anybody in the industry—and especially a contemporary—would try to nail three peers in a thing like this." The suit was eventually settled out of court.

Ingels' raging tantrums and foul mouth seem to know no bounds. For example, he once alienated the president of the Pillsbury Co. with a vulgar, four-letter blast over the phone, according to a former associate.

People who have worked closely with Ingels are throwing up their hands in despair.

"The man is sick and he's hurting my industry," fumed producer Lloyd Kolmer. "I try to reason with him but he rants and raves and then sends me threats. The man is a maniac!"

When asked by The ENQUIRER about the charges, Ingels replied: "Of course, none of it is true"—but he admitted that he was "flattered" by all the attention.

—JOHN SOUTH

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

We are the plaintiffs *in the above entitled action or proceeding; I have read the foregoing* COMPLAINT FOR LIBEL; INVASION OF PRIVACY; INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS *and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe it to be true.*

Executed on November 15th 1979 *at* Beverly Hills, *California.*

I declare, under penalty of perjury, that the foregoing is true and correct.

/s/ Shirley Jones
SHIRLEY JONES

/s/ Marty Ingels
MARTY INGELS

ROGERS & WELLS
261 South Figueroa Street
Los Angeles, California 90012

Telephone: (213) 626-6900

Attorneys for Defendants
JOHN SOUTH and IAIN CALDER

SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C 305009

SHIRLEY JONES and MARTY INGELS,
Plaintiffs,

v.

NATIONAL ENQUIRER, INC., *et al.*,
Defendants.

[Filed May 13, 1981]

(1) NOTICE OF MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT

(2) POINTS AND AUTHORITIES AND AFFIDAVITS IN SUPPORT THEREOF

Date: June 2, 1981
Time: 9:00 A.M.
Dept: 80

TO: EACH PARTY AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on June 2, 1981 at 9:00 A.M., or at such other time as the Court may direct, in

Department 80 of the Los Angeles Superior Court, 111 North Hill Street, Los Angeles, California, defendants John South and Iain Calder, appearing specially for the purpose of this motion only, will move the Court for an order quashing the service of the Summons and Complaint on them.

This motion is made on the ground that the Court lacks personal jurisdiction over defendants.

This motion will be based upon this Notice of Motion, the accompanying Memorandum of Points and Authorities, and Affidavits of John South and Iain Calder, the pleadings and files in the action, and such other material as may be submitted at or prior to the hearing. The original Memorandum and Affidavits in support of this motion were previously filed with this Court for a hearing date of May 18, 1981. At the request of plaintiff's counsel, the motion was re-noticed for June 2, 1981. For the convenience of the Court, copies of the Memorandum and Affidavits are attached hereto.

DATED: May 12, 1981.

ROGERS & WELLS

By: /s/ John F. Karaczynski
Attorneys for Defendants
JOHN SOUTH and IAIN CALDER

AFFIDAVIT OF IAIN CALDER

STATE OF FLORIDA)
) ss.
COUNTY OF)

Iain Calder, first duly sworn, deposes and says:

1. I have personal knowledge of the facts herein stated and if sworn as a witness could testify competently thereto.

2. I am a resident of Florida.

3. I am employed by the National Enquirer, Inc. as President and editor. This is my sole business activity. My place of business is the Enquirer headquarters, located in Lantana, Florida. I do not now have and never had an office or place of business in California.

4. I have never engaged in any other business activity in California or conducted interstate business with California in my personal capacity. I do not now and never have owned assets of any kind in California. I have never obtained credit or had any bank accounts in California.

5. I did not directly participate in the preparation of the Enquirer on the article which is the subject of this lawsuit. In 1979, I performed certain editorial services on behalf of the National Enquirer in connection with the article which is the subject of this lawsuit. During the course of my duties, I was not acting in a personal capacity and did not travel to California. Any editorial services performed in connection with the article took place in Lantana, Florida.

/s/ Iain Calder
IAIN CALDER

Subscribed and sworn to before
me on 20th day of April, 1981.

/s/ [Illegible]
Notary Public in and
for said County and State

Notary Public, State of Florida at Large
My Commisison Expires Dec. 4, 1981
Bonded by American Fire & Casualty Company

AFFIDAVIT OF JOHN SOUTH

STATE OF FLORIDA)
) ss.
COUNTY OF)

John South, first duly sworn, deposes and says:

1. I have personal knowledge of the facts herein stated, and if sworn as a witness could testify competently thereto.

2. I am a resident of Florida.

3. I am employed by the National Enquirer, Inc. as a reporter. This is my sole business activity. My place of business is the Enquirer's national headquarters, located in Lantana, Florida. I do not now have and never have had an office or place of business in California.

4. I have never engaged in any business activity in California in my personal capacity and I have never conducted any business in California or engaged in interstate business with California in my personal capacity. I do not now and never owned assets of any kind in California. I have never obtained credit or had bank accounts in California.

5. In 1979, I performed certain reporting services in Lantana, Florida on behalf of the National Enquirer, Inc. in connection with the article which is the subject of this lawsuit. In the course of my duties, I was not acting in my personal capacity and did not travel to California. All of my services performed in connection with the article took place in Lantana, Florida.

/s/ John South
JOHN SOUTH

Subscribed and sworn to before
me on 29th day of April, 1981.

/s/ Dana Owens Underwood
Notary Public in and
for said County and State

Notary Public, State of Florida at Large
My Commission Expires Dec. 7, 1983
Bonded by American Fire & Casualty Company

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Attorneys for Plaintiffs

SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C 305009

SHIRLEY JONES and MARTY INGELS,
Plaintiffs,

vs.

NATIONAL ENQUIRER, *et al.*,
Defendants.

[Filed May 28, 1981]

DECLARATION OF STEPHEN S. MONROE IN SUPPORT OF OPPOSITION TO MOTION TO QUASH SERVICE OF SUMMONS ON JOHN SOUTH AND IAIN CALDER

Date: June 2, 1981
Time: 9:00 a.m.
Dept: 80

DECLARATION OF STEPHEN S. MONROE

I, STEPHEN S. MONROE, declare as follows:

1. I am an attorney duly admitted to practice before all courts of the State of California. I am associated with the law firm of Hayes & Hume, attorneys for the

plaintiffs, Marty Ingels and Shirley Jones, in the subject action. I have personal knowledge of the facts hereinafter stated, and if sworn as a witness, could competently testify thereto.

2. On January 4, 1980, I took the deposition of Iain Calder, the President and Editor of the National Enquirer, in the case of *Carol Burnett vs. National Enquirer*, Los Angeles Superior Court Case No. C 157213. Mr. Paul Selvin of Selvin & Weiner represented the National Enquirer and appeared at the deposition on its behalf and had an opportunity to, and did in fact, cross-examine Mr. Calder. I have reviewed the relevant pages of the transcript of that deposition, true and correct copies of which are attached hereto as Exhibit A and are incorporated herein by reference as though fully set forth at length. Such pages accurately reflect the questions asked and answers given.

3. On Tuesday, June 3, 1980, I took the deposition of Iain Calder at the Palm Beach Hilton Hotel in Palm Beach, Florida. I have examined the relevant pages of the transcript of that deposition, true and correct copies of which are attached hereto as Exhibit B and are incorporated herein by reference as though fully set forth at length. Such pages accurately reflect the questions asked by the questioning attorneys and the responses given by Mr. Calder.

4. On Wednesday, June 4, 1980, at the Palm Beach Hilton Hotel, Palm Beach, Florida, I took the deposition of Mr. John South, a reporter for the National Enquirer. I have examined the relevant pages of the transcript of that deposition, true and correct copies of which are attached hereto as Exhibit C and are incorporated herein by reference as though fully set forth at length. Such pages accurately reflect the questions asked by the questioning attorneys and the responses given by Mr. South.

5. On Thursday, September 11, 1980, I took the deposition of Howard W. Kutz, the Senior Vice President/

Assistant Managing Editor of the Audit Bureau of Circulation, in the matter of *Carol Burnett vs. National Enquirer*, Los Angeles Superior Court Case No. C 157213. In that case, the National Enquirer was a defendant, represented at that time by Selvin & Weiner, Paul Selvin, Esquire. Mr. Selvin appeared at the deposition of Mr. Kutz. The Audit Bureau of Circulation is outside of the State of California and Mr. Kutz does not reside or work in this state. The National Enquirer had every opportunity to cross-examine Mr. Kutz, and in fact over one-third of the transcript reflects questioning by the Enquirer attorneys. In fact, the Enquirer had a greater interest in the cross-examination in that case than this, since there the issue of whether the National Enquirer was a newspaper or magazine was hotly contested. At bar, this issue is not as significant, since not even a purported retraction has ever been published. I have examined the average paid circulation figures for June 30, 1979; December 31, 1979; and June 30, 1980, exhibits to Mr. Kutz' deposition, true and correct copies of which are attached hereto as Exhibit D and are incorporated herein by reference as though fully set forth at length. Such circulation figures are an accurate reproduction of the documents produced.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of May, 1981, at Beverly Hills, California.

/s/ Stephen S. Monroe
STEPHEN S. MONROE

EXHIBIT A

[EXCERPT FROM DEPOSITION OF IAIN CALDER]

Q. And what position, if any, do you hold with the National Enquirer at the present time?

A. I'm president and editor.

Q. Would it be correct to say there's no one higher in the company except for Mr. Pope?

A. That's correct.

Q. Mr. Pope is the publisher and chairman of the board?

A. That's correct.

Q. And what, if you can recall, was your position in March of 1976?

A. I don't know exactly offhand.

Q. At that particular point in time you were performing editorial functions?

A. Yes.

MR. SELVIN: Off the record.

(Discussion off the record.)

MR. MONROE: Back on the record.

Q. What are your duties now as president, Mr. Calder?

A. As president my duties basically are to oversee just about every function of the Enquirer.

Q. And do you hold any other position now other than president?

A. Yes. I said president and editor.

Q. And editor. Thank you.

What are your functions now as editor?

A. To oversee the whole editorial process.

Q. At this time is it your belief that in March of 1976 you were an editor?

A. Yes. My belief is that I was editor of the National Enquirer.

MR. SELVIN: And I stated before that will be reflected on the masthead of the National Enquirer as of that date.

BY MR. MONROE:

Q. Have the functions of the position of editor changed substantially since 1976?

A. Not substantially.

Q. To the best of your recollection, in what year were you employed, first employed by the National Enquirer?

A. I joined the National Enquirer in its London office about fifteen years ago.

Q. And prior to coming on board with the National Enquirer what was your journalism experience?

A. I had roughly nine years journalism experience before that. I had worked on three weekly newspapers and one daily newspaper.

EXHIBIT B

[EXCERPT FROM DEPOSITION OF IAIN CALDER]

(Whereupon, at this time, Jones-Ingels Notice of Deposition and Request For Production of documents marked Plaintiff's Exhibit Number 1 for identification.

Carol Burnett's Notice of Deposition and Request For Production of documents marked Plaintiff's Exhibit Number 2 for identification.)

THEREUPON,

IAIN CALDER

after being first duly sworn by the undersigned Notary Public, responded as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. MONROE:

Q. Mr. Calder, you are still the president of the National Enquirer?

A. Yes, I am.

Q. Have you been employed by the National Enquirer about fifteen years?

A. About fifteen years, yes.

Q. You're familiar with its operations and policy?

A. Yes, I am.

Q. That familiarity is derived from your experience as editor and president; is it not?

A. Yes.

Q. You have had in excess of fifteen years' experience

• • • •

A. Yes, he was.

Q. Let me digress for a moment, Mr. Calder, and ask you in the normal custom, habit and practice that prevailed at the National Enquirer in September and October

of 1979, if someone were to write the Enquirer or telegraph the Enquirer saying a story that they were about to do was libelous, would that matter be brought to your attention?

A. Probably would be.

Q. That would be one of your functions as president and editor to know about those types of things or to acquaint yourself to those types of things, let's put it that way?

A. Not necessarily in every case, but, yes, in general terms. I should know if there was a legal problem, yes.

Q. And based upon your experience in the National Enquirer and your relationship with Mr. Pope, if Mr. Pope receives some written indication in advance of the publication of a story that a subject considered it libelous, would that normally come to your attention?

A. Not initially if he was dealing with it. If he dealt with it to his satisfaction, he wouldn't tell me about it. That wouldn't necessarily tell me about it either.

• • • •

• • • saying pay attention to it. I don't know whether you heard the witness's answer.

BY MR. MONROE:

Q. Someone was communicating to the reporter to pay attention?

A. No. Someone was communicating with someone. I don't know who wrote it and I don't know who did it, so I don't know who was communicating with whom.

Q. Mr. Calder, to your knowledge, have you talked with the source of this material?

A. Not to my knowledge. I don't know who the source was.

Q. You never reviewed any documents which, to your knowledge, contained the name of the source for the story?

A. Not to my knowledge.

Q. To your knowledge, Mr. Calder, have you had any dealings with this particular story prior to publication other than to review the evaluation?

A. Except also to see the final page proof form. I would imagine I saw that. I don't specifically recollect seeing it, but I would have seen it.

Q. Do you have any recollection of ever having read the reporter's copy of the story, Plaintiff's Exhibit Number 9?

A. I didn't read it, no.

• • • •

A. John South. Yes. That says byline.

Q. 21, I'm sorry. In reference to that particular paragraph, Mr. Calder, in October of 1979, was there any policy in force at the National Enquirer to the effect that a celebrity who was to be the subject of an article would be called up in advance of publication and given an opportunity to explain or deny the contents of the proposed article?

A. That would depend on the article, but where possible we would try to give the celebrity a chance to reply in a feature story.

Q. This was a feature story?

A. An article, a feature story, Mr. Monroe, whatever you want to call it.

Q. Would the National Enquirer have published this particular article if they were aware that Mr. Ingels had denied the truth of the article?

The National Enquirer would publish this particular article if they were aware that Mr. Ingels had denied the truth of the article, would they not?

A. You are telling me this?

Q. I'm asking you.

A. I don't know that of my own knowledge.

Q. Would it be true, Mr. Calder, based upon your knowledge and experience of some fourteen or fifteen years with the Enquirer that you would have been responsible in October of 1979, for determining whether a retraction was in order with respect to an article which was claimed to be libelous?

A. Yes.

Q. And in this particular case did you do so?

A. Did I determine it?

Q. Did you make a determination with respect to this particular article?

A. Yes.

Q. Did you determine not to print the retraction; is that not correct?

A. That's correct.

Q. In making that determination, did you listen to any tape recording?

A. No, I didn't.

Q. In making that determination, did you view any documents in the story folder which had not been produced yet today, to your knowledge?

A. No, I didn't.

Q. In making that determination not to retract, were you aware of the name of the source for this particular article?

A. No, I wasn't. I would like to add one thing if I could.

• • • •

Q. If you receive an inquiry concerning the truth or falsity of an article or a story that was at that point in time subject of a libel claim, would that in the normal course be retained by the Enquirer?

A. I can't remember that coming up. The question has never arisen in my estimation.

Q. In your experience?

A. In my experience that I can remember.

Q. Have you ever entertained any opinion personally as to whether or not you believe the allegations in this article to be true, this article meaning Plaintiff's Exhibit 3?

A. I think we stand by the article and as far as I'm concerned the story is true.

Q. Now, have you ever been to California?

A. Yes.

Q. On business for the Enquirer?
A. Yes.
Q. On pleasure?
A. Yes.
Q. About how many times in the last three or four years have you been to California?
A. The last three or four years I think only once.
Q. Was that business?
A. That was pleasure.

• • • •

October of 1979?

A. He had the same responsibility as did I and the managing editor. If he saw something that he felt was wrong, then it's up to him to do something about it, to investigate it further.

Q. In September and October of 1979, was it Mr. Walker's responsibility to review articles on proposed stories?

A. I'm not sure what you mean by review articles.

Q. To read them?

A. Yes, to read them, yes.

Q. In September and October of 1979, was it Mr. Walker's primary purpose or obligation with the National Enquirer to read articles or stories or items and make a recommendation or determination as to whether they would be libelous or invade a person's privacy or otherwise involve some kind of legal complication?

A. That wasn't his primary responsibility. But if he felt from his experience that such a thing should be checked out, then he would in fact check it out. And in fact, if research spotted a potential problem that would need legalling, he would then make sure or he should make sure that it • • •

• • • •

EXHIBIT C

[EXCERPT FROM DEPOSITION OF JOHN SOUTH]

* * * have been sitting about twenty yards away in the reporter's section. And the conversation would have taken place either at his desk or mine.

Q. All right. And do you recall what it was he said to you at that time?

A. I believe he said we have this lead in on Shirley Jones and Marty Ingels and I would like you to handle it.

Q. Is that all that you can remember him saying to you during that conversation?

A. Yes.

Q. Do you remember what you said to him during that conversation?

A. Okay.

Q. Did he physically hand you the lead sheet?

A. Yes.

Q. At the time he handed you the lead sheet did he give you any other material?

A. I believe he did.

Q. What other material was that, if you know?

A. I believe it was a transcript of interviews already done.

Q. One or more transcripts, if you know?

A. To the best of my recollection, it was one, one transcript.

• • • •

Based upon your experience as a reporter and senior reporter at the Enquirer and based upon your knowledge with respect to the prevailing custom, habit and practices of the Enquirer in August, September and October of 1979, would there at any time during the life of a story file be in existence one or more documents that would inventory its contents or contain a list of its contents?

A. I don't know.

Q. Have you ever met Robert John Lucas face-to-face?

A. Yes.

Q. I'm sorry, it's John Robert Lucas, is it not?

A. John Robert Lucas.

Q. You have met him face-to-face?

A. Yes, sir.

Q. Do you know if he goes by the name of Bob or Bobby?

A. I know him as Bobby Lucas.

Q. To your knowledge, has Mr. Lucas ever been back to Lantana, Florida?

A. Not to my knowledge.

Q. And when I say to your knowledge, Mr. South, I mean not only have you seen but has anyone told you? Did you understand the question in that way?

A. No one has told me and I have not seen him.

Q. I take it then that any meeting that you had with him would have been in California?

A. Yes.

Q. Let us digress if we may for a moment.

As a reporter for the Enquirer, Mr. South, have you been required to go on trips?

A. Yes.

Q. And have any of those trips been to Califoria?

A. Yes.

Q. About how many trips to California say over the last four years preceding the October 9, 1979 publication date of this article, did you take?

A. Many.

Q. When you say "Many," more than ten?

A. Yes.

Q. More than twenty?

A. Over four years I would think so.

Q. Can you give any estimate as to the number of trips?

A. No.

Q. Say within the closest ten?

A. I really couldn't say. It's certainly more than twenty.

Q. All of those trips were on Enquirer business?

A. Correct.

Q. And during that period of time, Mr. South, four years preceding the publication of this article, can you give me an estimate of the total number of days that you remained in California overnight for those trips?

A. No.

Q. Can you give me any estimate as to the average length of a business trip for the Enquirer to California?

A. One to two weeks.

Q. Do you have personal or social friends in California?

A. Yes.

MR. MONROE: Off the record.

(Discussion held off the record.)

MR. MONROE: Let's go back on the record.

BY MR. MONROE:

Q. Can you give me an estimate, Mr. South, approximately how many friends and business acquaintances you have in California at the present time?

MR. MASTERSON: This is friends and business acquaintances? Can't you break it down, Mr. Monroe?

MR. MONROE: Okay.

BY MR. MONROE:

Q. When I say business acquaintances, I mean anyone not related to the business of the National Enquirer?

Does that help break it down a little bit?

A. Not related to the business of the Enquirer? I'd say a dozen.

Q. And how many business acquaintances do you have in California at the present time, Mr. South, who are related in some way to the business of the National Enquirer?

A. At this time?

Q. Sure.

A. I'd estimate about twenty.

Q. Would those figures have been about the same or to your knowledge more or less in October of 1979?

A. I think about the same.

Q. Mr. South, do you own any real or personal property at the present time in the State of California?

A. No.

Q. Have you at any time within four years preceding the publication of this article owned any real or personal property situated in California?

A. No.

Q. Have you at any time within the four years preceding the publication of the article in question been employed by any California company or sought employment with any California company?

A. No.

Q. How many times, if you can recall, did you meet Bobby Lucas in California while on Enquirer business?

A. I would estimate half a dozen.

Q. And what time period did those meetings cover; that is, from approximately when to approximately when?

A. I would say within the past year.

Q. Were any of those meetings prior to the date of publication on the subject article, Mr. South, meaning the Jones-Ingels article?

A. Yes.

Q. How many?

A. I would think two.

Q. Were those meetings related to one or more than one story?

A. Were all meetings related to one or more stories?

Q. I'm sorry, I didn't make the question clear. Of the two meetings that occurred in Califonia prior to the subject article being published, were those meetings related to one story or to more than one story?

A. I believe to more than one.

Q. My next question is, Bill, were any of those meetings related to the potential publication of the Shirley Jones-Marty Ingels article?

MR. MASTERSON: I'm going to construe the question as were those meetings for Jones-Ingels article, I'm going to object on the source, on the constitutional grounds previously referenced and instruct the witness not to answer.

MR. MONROE: The same objection and same instruction is fine.

MR. MASTERSON: Thank you.

BY MR. MONROE:

Q. Mr. South, at any time while you were in California prior to the publication—let me withdraw that.

At any time while you were in California prior to the publication of the Shirley Jones-Marty Ingels article, did you speak with Bobby Lucas about doing any writing for the Enquirer?

A. Yes.

Q. Was that conversation to which you just referred in connection with one article or one or more articles or no articles?

A. No specific articles.

Q. Was that the first or the second conversation of the two that took place prior to October 9, 1979?

A. I would think the first.

Q. And do you happen to have a recollection of the date of the first meeting?

A. No, I don't.

Q. Do you happen to have a recollection of the month in which it occurred?

A. I believe that I spoke first to Bobby Lucas about a year ago, but I can't remember whether it was in person or by telephone and I can't remember exactly when I met him personally. I had about six meetings with him and many telephone conversations in the past year.

Q. About how many telephone conversations in the past year, if you can recall? Bill, not your best number, but your best estimate.

A. Let's make it around fifty.

Q. Fifty?

A. Yes.

Q. Did any of those phone conversations occur prior to the publication of the Shirley Jones-Marty Ingels article?

A. Yes.

Q. And please give your best estimate as about how many of those occurred prior to the publication of the Jones-Ingels article?

A. I would estimate around 20, 25.

Q. Were you introduced to Bobby Lucas through Jane Chesis?

A. Yes.

Q. And did you first hear his name from her?

A. Yes.

Q. When, if you can recall, did that first conversation in which Mr. Lucas' name was mentioned occur?

A. I believe about a year ago.

Q. And was that a telephone conversation?

A. I believe it was.

Q. And I wonder if you would relate to me as best as you can what was said during that conversation?

A. As I remember it, Mr. Monroe, that he was a free-lance journalist covering the Hollywood scene. That Jane Chesis told me that he was a free-lance journalist covering the Hollywood scene. That Jane Chesis told me that he was a free-lance journalist covering the Hollywood scene; that he moved around in Hollywood circles and that he met regularly with actors, producers, show biz agents, publicity people, studio personnel and musicians and that he attended parties which show biz people attended and that he would be a very useful contact for me to meet and that he was extremely reliable.

Q. Insofar as she was aware?

A. As far as she was aware, yes.

Q. Now, first of all, when you use the words "Hollywood scene," were those Jane's words or was that your characterization of the substance?

A. That's what I refer to, to the Hollywood scene • • •

EXHIBIT D

• • • •

NATIONAL ENQUIRER
LANTANA, FLORIDA 33464

[ABC Emblem]

MAGAZINE PUBLISHER'S STATEMENT

Average Paid Circulation
For Six Months Ended December 31, 1979
5,024,180

Publisher's Compilation—Subject to Audit

AUDIT BUREAU OF CIRCULATIONS
123 North Wacker Drive—Chicago, Illinois 60606

NATIONAL ENQUIRER
Publisher's Statement
For 6 Months Ended
December 31, 1979

NAME OF PUBLICATION

CLASS, INDUSTRY OR FIELD SERVED: General

1. AVERAGE PAID CIRCULATION FOR 6 MONTHS ENDED DECEMBER 31, 1979:

Subscriptions:		486,064
Single Copy Sales:		4,538,116
AVERAGE TOTAL PAID CIRCULATION		5,024,180
Average Total Non-Paid Distribution	3,311	

1a. AVERAGE PAID CIRCULATION of Regional, Metro & Demographic editions.

2. PAID CIRCULATION (Total of subscriptions and single copy sales) BY ISSUES:

Issue			Issue			Issue		
July	3	4,811,219	Sept.	4	5,163,720	Nov.	6	5,310,646
	10	5,085,840		11	4,893,910		13	5,285,454
	17	4,857,238		18	5,292,200		20	5,371,742
	24	4,880,083		25	4,898,400		27	5,255,412
	31	4,895,327						
Aug.	7	4,787,240	Oct.	2	5,189,181	Dec.	4	5,176,904
	14	4,685,630		9	4,749,357		11	5,271,194
	21	4,851,454		16	4,940,969		18	5,283,375
	28	4,356,172		23	5,161,861		25	5,037,412
				30	5,136,751			

3. U.S. PAID CIRCULATION BY ABCD COUNTY SIZE:

Advertising content (exclusive of mail order and house advertising) being less than 10% of total content, answer to this paragraph is not required.

4. GEOGRAPHIC ANALYSIS OF TOTAL PAID CIRCULATION FOR THE SEPTEMBER 18, 1979 ISSUE:

Total paid circulation of this issue was 5.33% greater than average total paid circulation for period. Subscriptions and Single Copy Sales figures are based on the percentage for each State Province determined by analysis of February 6, 1979 issue and these percentages are projected against the total for September 18, 1979 issue.

STATE	Subs.	Single Copy Sales	TOTAL	%
Maine	1,858	22,883	24,741	
New Hampshire	1,288	18,686	19,974	
Vermont	704	8,561	9,265	
Massachusetts	7,409	137,147	144,556	
Rhode Island	1,144	21,530	22,674	
Connecticut	3,945	64,020	67,965	
NEW ENGLAND	16,348	272,827	289,175	5.46
New York	19,147	297,764	316,911	
New Jersey	8,588	115,773	124,361	
Pennsylvania	20,722	268,959	289,681	
MIDDLE ATLANTIC	48,457	682,496	730,953	13.81
Ohio	22,179	200,776	222,955	
Indiana	11,640	98,130	109,770	
Illinois	27,406	219,012	246,418	
Michigan	18,272	161,399	179,671	
Wisconsin	16,704	84,665	101,369	
EAST NO. CENTRAL	96,201	763,982	860,183	16.25
Minnesota	14,874	90,690	105,564	
Iowa	10,355	45,213	55,568	
Missouri	16,705	68,359	85,064	
North Dakota	3,291	12,424	15,715	
South Dakota	3,425	14,047	17,472	
Nebraska	6,709	30,219	36,928	
Kansas	7,877	61,488	69,365	
WEST NO. CENTRAL	63,236	322,440	385,676	7.29
Delaware	740	10,174	10,914	
Maryland	5,933	61,293	67,226	
District of Columbia	1,413	18,459	19,872	
Virginia	8,351	85,941	94,292	
West Virginia	4,646	45,600	50,246	
North Carolina	8,263	97,564	105,827	
South Carolina	4,173	56,025	60,198	
Georgia	7,153	88,675	95,828	
Florida	31,333	262,247	293,580	
SOUTH ATLANTIC	72,005	725,978	797,983	15.08

STATE	Subs.	Single Copy Sales	TOTAL	%
Kentucky	7,476	66,535	74,011	
Tennessee	7,866	83,401	91,267	
Alabama	5,938	66,606	72,544	
Mississippi	3,183	28,060	31,243	
EAST SO. CENTRAL	24,463	244,602	269,065	5.08
Arkansas	5,588	49,145	54,733	
Louisiana	6,464	61,738	68,202	
Oklahoma	8,626	78,352	86,978	
Texas	22,527	223,499	246,026	
WEST SO. CENTRAL	43,205	412,734	455,939	8.62
Montana	3,279	21,716	24,995	
Idaho	2,856	18,935	21,791	
Wyoming	1,700	11,455	13,155	
Colorado	8,244	62,861	71,105	
New Mexico	2,492	28,859	31,351	
Arizona	6,524	64,711	71,235	
Utah	2,427	25,623	28,050	
Nevada	2,228	30,266	32,494	
MOUNTAIN	29,750	264,426	294,176	5.56
Alaska	862	5,672	6,534	
Washington	12,627	87,889	100,516	
Oregon	6,991	99,497	106,488	
California	59,726	544,705	604,431	
Hawaii	1,366	14,583	15,949	
PACIFIC	81,572	752,346	833,918	15.76
Unclassified				
Miscellaneous				
UNITED STATES	475,237	4,441,831	4,917,068	92.91
Possessions & Other Areas	734	7,069	7,803	0.15
U.S. & POSSESSIONS, etc.	475,971	4,448,900	4,924,871	93.06

	Subs.	Single Copy Sales	TOTAL	%
Canada	7,162	349,177	356,339	6.73
Newfoundland	132	3,726	3,858	1.08
Nova Scotia	417	27,960	28,377	7.96
Prince Edward Island	61	2,238	2,299	0.65
New Brunswick	225	15,021	15,246	4.28
Quebec	482	20,134	20,616	5.79
Ontario	2,593	183,186	185,779	52.14
Manitoba	652	18,989	19,641	5.51
Saskatchewan	975	11,214	12,189	3.42
Alberta	462	15,018	15,480	4.34
British Columbia	1,147	51,691	52,838	14.83
Northwest Territories	10		10	0.00
Yukon Territory	6		6	0.00
CANADA	7,162	349,177	356,339	100.00
Foreign	1,004	3,818	4,822	0.09
Unclassified				
Military or Civilian Personnel Overseas	598	5,570	6,168	0.12
GRAND TOTAL	484,735	4,807,465	5,292,200	100.00

ANALYSIS OF THE TOTAL NEW AND RENEWAL SUBSCRIPTIONS

Sold During 6 Months Period Ended December 31, 1979

5. AUTHORIZED PRICES and total subscriptions sold:	
(a) Basic Prices: Single Copy United States 40¢; Canada 40¢ to July 31, 1979 thereafter 45¢ Subscriptions: 6 mos. $6.48, 1 yr. $12.95	232,579
(b) Higher than basic prices: Canada 1 yr. $14.95. Foreign, 1 yr. $17.00	
(c) Lower than basic prices: 20 weeks $3.95, $4.95, 1 yr. $8.95, $9.95	58,460
(d) Association subscription prices:	None
Total Subscriptions Sold in Period	291,039
6. DURATION OF SUBSCRIPTIONS SOLD:	
(a) For five years or more	None
(b) For three to five years	None
(c) For one to three years	232,181
(d) For less than one year	58,858
Total Subscriptions Sold in Period	291,039
7. CHANNELS OF SUBSCRIPTION SALES:	
(a) Ordered by maid and/or direct request	291,039
(b) Ordered through salesmen:	
1. Catalog agencies and individual agents	None
2. Publisher's own and other publisher's salesmen	None
3. Independent agencies' salesmen	None
4. Newspaper agencies	None
5. Members of schools, churches, fraternal and similar organizations	None
(c) Association memberships	None
(d) All other channels	None
Total Subscriptions Sold in Period	291,039
8. USE OF PREMIUMS:	
(a) Ordered without premium	291,039
(b) Ordered with material reprinted from this publication	None
(c) Ordered with other premiums	None
Total Subscriptions Sold in Period	291,039

ADDITIONAL CIRCULATION INFORMATION

9. ARREARS AND EXTENSIONS: Average number included in PAID (Par. 1) which represents:

   (a) Average number of copies served on subscriptions carried in arrears not more than three months — None

10. COLLECTION STIMULANTS: — None

11. BASIS ON WHICH COPIES WERE SOLD TO RETAIL OUTLETS:

    Fully returnable — 100.00%

12. EXPLANATORY:

    Latest Released Audit Report Issued for 12 months ended June 30, 1978.

We hereby certify that all statements set forth in this statement are true.

04-0745-0

NATIONAL ENQUIRER, published by, National Enquirer, Inc., Lantana, Florida 33464.

JAMES E. NOLTE
Circulation Manager

J. RICHARD ALLISON
Secretary

Date Signed, January 18, 1980.

* * * *

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Telephone (213) 858-2050

Attorneys for Plaintiffs

SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C 305009

SHIRLEY JONES and MARTY INGELS,
Plaintiffs,

vs.

NATIONAL ENQUIRER, INC., *et al.*,
Defendants.

[Filed May 28, 1981]

DECLARATION OF PAUL S. ABLON IN SUPPORT OF OPPOSITION TO MOTION TO QUASH SERVICE OF SUMMONS ON JOHN SOUTH AND IAIN CALDER

Date: June 2, 1981
Time: 9:00 a.m.
Dept: 80

DECLARATION OF PAUL S. ABLON

I, PAUL S. ABLON, declare as follows:

1. I am an attorney duly admitted to practice before all courts of the State of California. I am an associate with the law firm of Hayes & Hume, attorneys of record

for the plaintiffs in this matter. I have personal knowledge of the facts hereinafter stated, and if sworn as a witness, could competently testify thereto.

2. On April 22, 1980, I took the first of four sessions of the deposition of Dayzhun Jane Chesis, at the law offices of Hayes & Hume, which session of the Chesis deposition is contained at pp. 4 through 95 of the written transcript. The deposition was not completed at that time, but was continued to a later date. I have examined the relevant pages of the transcript of this first session of Mrs. Chesis' deposition, true and correct copies of which are attached hereto as Exhibit A and are incorporated herein by reference as though fully set forth at length. Such pages accurately reflect the questions asked by the questioning attorney and the responses given by the deponent.

3. On May 20, 1980, I took the second session of the deposition of Mrs. Chesis at the offices of Hayes & Hume, which session of the Chesis deposition is contained at pp. 96 through 153 of the written transcript. I have examined the relevant pages of the transcript of this second session of the Chesis deposition, true and correct copies of which are attached hereto as Exhibit B and are incorporated herein by reference as though fully set forth at length. Such pages accurately reflect the questions asked by the questioning attorney and the responses given by Mrs. Chesis.

4. On May 22, 1980, the third session of the deposition of Mrs. Chesis was taken. The transcript of the third session of Mrs. Chesis' deposition is contained at pp. 154 through 243 of the written transcript. I have examined the relevant pages of this session of the Chesis deposition, true ond correct copies of which are attached hereto as Exhibit C and are incorporated herein by reference as though fully set forth at length. Such pages accurately reflect the questions asked and the responses given.

5. On July 3, 1980, the deposition of Mrs. Chesis was finally concluded. The fourth session of Mrs. Chesis' deposition is contained in the written transcript at pp. 244 through 351. I have examined the relevant pages of this portion of Mrs. Chesis' deposition, true and correct copies of which are attached hereto as Exhibit D and are incorporated herein by reference as though fully set forth at length. Such pages accurately reflect the questions asked and the responses given by the deponent.

6. The law firm of Hayes & Hume represents Carol Burnett in her lawsuit against the National Enquirer, Los Angeles Superior Court Case No. C 157213. I was one of the attorneys present in court for nearly the entire duration of the *Burnett* trial and during the testimony of Iain Calder on March 16, 1981. This matter commenced trial on March 9, 1981, and a jury verdict was obtained on March 26, 1981. A true and correct copy of the relevant testimony of Mr. Calder given therein is attached hereto as Exhibit E and incorporated herein by reference as though fully set forth at length. I have reviewed this transcript, which accurately reflects the questions asked and the answers given at that time.

7. During the course of the *Burnett* trial, I observed that Mr. Calder was present in the courtroom for virtually the entire duration of the trial. Further, Mr. Calder, a defendant in the *Burnett* lawsuit, at no time during the course of those proceedings made any motion to quash or otherwise challenge jurisdiction or claim inconvenience in defending that lawsuit in California. In connection with my work on the *Burnett* lawsuit, I personally became aware that there were several depositions taken in California of National Enquirer employees who are residents of Florida. These depositions included the deposition of Paul Jenkins, Steven Tinney, and Hayden Cameron. (Though at the time of their depositions Jenkins and Tinney had ceased working for the National Enquirer, arrangements for their depositions were

made through National Enquirer attorneys.) Thus, employees of the National Enquirer had no great difficulty appearing in California when necessary in connection with ongoing litigation.

8. Included in the statement of facts herein is a true copy of the subject article that appeared in the National Enquirer of October 9, 1979. The authenticity of this article was admitted in the answer filed by the defendant, National Enquirer, in this action.

9. The address given by Mrs. Jane Chesis in her deposition of 8440 West Sunset Boulevard is located in Los Angeles, California. I have had occasion to serve various subpoenas on Mrs. Chesis at that address, and found her to reside therein.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of May, 1981, at Beverly Hills, California.

/s/ Paul S. Ablon
PAUL S. ABLON

EXHIBIT A

[DEPOSITION OF DAYZHUN JANE CHESIS]

* * * *

* * * the costs that you may be subjected to—

A. I do not.

Q. —if we are forced to go to court to compel your answers?

A. I do not.

Q. Has that subject been discussed—

A. No.

Q. —with any attorney or with any law firm that you may have discussed this case or any other case with in the past?

A. It has not.

Q. Let me finish my questions, if I might. Prior to your deposition today, have you had any conversations with any person who is employed or was employed by the "National Enquirer" relating to this deposition?

A. Yes.

Q. Tell me who that was.

A. John South.

Q. When did you have this discussion with Mr. South?

A. About a week ago.

Q. Was this a face-to-face discussion—

A. It was.

Q. —or telephone? Where did this discussion take place?

A. Schwab's drug store.

Q. Which is located where?

A. In Los Angeles on Sunset Boulevard.

Q. Was anyone else present at that conversation other than the people that were just in Schwab's and other than yourself and Mr. South?

A. There was not.

Q. Who called for this meeting?

A. We went to breakfast. It wasn't a meeting.

Q. What was the nature of your discussion with Mr. South concerning this deposition?

A. He asked if I had given it yet.

Q. Anything else?

A. No.

Q. Were there any other discussions concerning this case or this deposition at that time?

A. No. We were discussing his vacation and suntan and his loss of weight.

Q. I'm sorry. I may have missed something. When did you say this meeting took place?

A. About a week ago.

Q. About a week ago. Was anything else discussed that is relevant to this lawsuit or to this deposition?

A. Nothing.

Q. Were there any discussions between yourself and Mr. South concerning the "National Enquirer"?

A. No. We never discuss his work or the paper. We make that a rule.

Q. Had you had any discussions prior to that meeting last week with Mr. South concerning this deposition?

A. Yes.

Q. Do you recall relative to that meeting of last week when those prior discussions were or that prior discussion was?

A. January 9th.

Q. Was that a face-to-face meeting or—

A. It was.

Q. Where did that discussion take place?

A. The Hillcrest Hotel.

Q. What was the nature of the discussion germane to the deposition or the case at that time?

A. Merely that I had met you and had a discussion with you.

Q. Anything else relating to this lawsuit or the deposition?

A. No.

Q. Between January 9th, 1980, and the meeting of last week with Mr. South, did you have any other meetings or phone conversations with him?

A. Many times. We're friends.

Q. Any other meetings or phone conversations of which this lawsuit or your deposition was the subject?

A. I called him and told him I had been served.

Q. Where did you call him?

A. In Florida.

Q. Why did you call him to tell him that?

A. I felt I owed it to him. John and I are friends, as I said prior.

Q. Did he ask to be notified of what happened in connection with this lawsuit?

A. No.

Q. At the time that you called him to tell him that you had been served, did you at all discuss the deposition or the lawsuit?

A. Yes.

Q. Can you tell me what the substance of that discussion was?

A. I suggested he get hold of Thom Keith, T-h-o-m K-e-i-t-h, who was then recovering from a heart attack.

Q. What was the purpose that you suggested that this occur?

A. Mr. South had intervewed Mr. Keith pertinent to the Marty Ingels story which appeared in the "Enquirer," and even though the information given by Mr. Keith—who at one time lived with Marty Ingels—concerning Mr. Ingels' desire to marry a wealthy woman and making a list of women to marry, starting with Doris Day—Shirley Jones was second on the list—that even though he had it on tape, it might be wise for his protection to have a deposition, since Mr. Keith had been told to cease drinking and had not.

Q. What was Mr. South's response to your suggestion?

A. He would contact the attorneys.

Q. Which attorneys are those?

A. He didn't say, and I didn't ask. I just assumed they were the "National Enquirer" attorneys.

Q. Was there anything else in that conversation relative to your deposition or the lawsuit?

A. Not that I recall.

Q. Any other conversations with Mr. South relative to the lawsuit or your deposition other than, I believe, the three that you have alluded to?

A. We've had others where I said I cannot understand why—I think it's foolish, a waste of time, a waste of money, since anything I may know is strictly hearsay, which is not admissible as evidence, and knowing Mr. Ingels' reputation throughout Hollywood and the theatrical world—why he would want to force me to give a deposition which will only be harmful to him and not beneficial in any way, because whatever I know would merely back up the "Enquirer's" allegations.

MR. ABLON: I'm going to move to strike that answer on the grounds that it's nonresponsive.

Q. Did you make any of those statements to Mr. South in a conversation?

A. I did.

Q. Was it in one of the conversations to which you have previously alluded?

A. No. It was in others, the two or three others that we have had, because it has always puzzled me.

Q. Has anyone at the "Enquirer" offered to pay for your time or any costs that you may incur for refusing to respond to any question at this deposition?

A. They have not. Nor would I expect them to.

Q. Have you had any conversations with anyone else at the "National Enquirer" other than Mr. South concerning your deposition or the subject of this lawsuit?

A. I have not. Mr. Ablon, could I have a glass of water?

MR. ABLON: Sure can.

• • • •

Q. Do you recall the approximate time—

A. No.

Q. Do you recall how long you were in prison during each of these occasions?

A. No.

Q. Was it a month? A week? Very roughly.

A. I don't remember.

Q. You have no recollection of that?

A. If it was necessary due to the work, sometimes they got me out on bond. Sometimes they left me in there to obtain whatever they wanted. I don't know how to answer these questions, really. And if I had known you were going to get into this, I would have brought a federal attorney with me.

Q. I am asking you specifically about the two times.

A. I do not recall.

Q. You have no recollection as to whether you were in prison for two days or two years?

A. I don't recall—I know I wasn't there for two years.

Q. Was it less than a month on each occasion?

A. I don't remember.

Q. Can you please tell me your current residence address?

A. My legal address is 8440 West Sunset Boulevard.

Q. Is that an apartment building?

A. It is.

Q. Do you have an apartment number?

A. 1111.

• • • •

Q. What was your job function there?

A. I created a television concept, which was optioned by ABC and died along with Mr. Sharp.

Q. What was the name of that concept?

A. It had a working number, no title.

Q. So you were basically in that position a writer?

A. That's stretching it a point.

Q. After Mr. Sharp's death in November of 1975, what did you next do?

A. I refused to work for anybody, put a concept of a film together, and went to G. David Schein with it.

Q. What was Mr. Schein's response to your concept?

A. It was produced.

Q. What was the name of the film?

A. "That's Action."

Q. Was it a theatrical film or a—

A. It was.

Q. How about after the completion of that particular project? Were you working, by the way, when you were working on that film? Were you currently working on any other films or writing projects?

A. No. I had two concepts going, which didn't sell. After that I did some stringing for the "National Enquirer."

Q. When you say "after that," what time period are we talking about when you first began that?

A. The fall of '77. It would be the fall of '77.

Q. You used the term "stringing" for the "National Enquirer." Could you define what you mean by that term?

A. I would give them leads for stories. If the reporters involved with the "Enquirer"—if the lead was approved and they subsequently did a story, then I was paid a lead fee.

Q. How did you initially make contact with the "National Enquirer" to engage in this kind of work?

A. I put together an award show for a film society—of which Mr. Ingels, incidentally, emceed—and I was approached by one of their employees, a Mr. Don Monte, to give them gossip, which I didn't do, because I wouldn't know gossip if it hit me at that time.

Q. Mr. Monte was an employee of the "Enquirer"?

A. He was and still is.

Q. Do you know what his title or position is with the "Enquirer"?

A. He works for the gossip column. I don't know what his title is.

Q. Is he a writer?

A. I don't know.

Q. Does he reside in California, or does he reside in—

A. Someplace in Los Angeles.

Q. What was the name of this award show, if you can recall?

A. The Bijou National Film Society Awards Show, Labor Day weekend of '77.

Q. How long did you continue acting as a stringer for the "National Enquirer"?

A. That's all I ever was for the "National Enquirer."

Q. How long did you—

A. Up until October of '79. About two years.

Q. To your recollection, approximately how many articles that were published in the "National Enquirer" were you involved in to one degree or another as a stringer?

A. You've got to be kidding. I have no idea.

Q. I take it from that that there were a substantial number.

A. Yes.

Q. Do you recall the remuneration that you received for your activities on behalf of the "National Enquirer"?

A. $2,000, 1977. Approximately $11,500 for '78. Approximately between $25,000 and $26,000 for '79. And around $2500 for 1980. Though I no longer string for them, you are paid upon publication, which gives you the reason for the 1980 figure.

Q. Can you tell me the method by which you were paid, in terms of did you receive a retainer of some sort, or were you paid on an as-you-produce basis?

A. You are paid upon publication by check.

Q. Do you recall the amount that you initially received for a publication that you acted as a stringer on?

A. You mean break it down into stories?

Q. Well, did you receive the same amount for everything you did?

A. No.

Q. How was the amount determined that you would receive for stringing on a particular article?

A. It would depend upon the involvement with the article. Such as I do recall one. I went down to the county jail and interviewed Evel Knievel in jail. I was paid $250 for the lead fee and $500 for the interview and traipsing back and forth trying to catch him as they were transferring him from facility to facility.

MR. MONROE: Did he show you the baseball bat?

THE WITNESS: He didn't have it, but he had on a gorgeous brown outfit, which I later found out was the one—

MR. MASTERSON: Can we keep down the distractions during the depo, Mr. Monroe? I would really like to get out of here some year.

MR. MONROE: I didn't mean to offend you, Mr. Masterson. I just thought that it was a humorous situation.

MR. MASTERSON: It certainly didn't offend me.

Q. BY MR. ABLON: Was this fee for the lead you indicated in the Knievel story—did you say the lead fee was $250?

A. That's right.

Q. Was that a standard fee that you would receive, generally speaking?

A. That is standard. For any top story, it's $250. For a down story, it's $125. Bottom of the page is $125, and top of the page is $250.

Q. Did you do any actual writing of articles?

A. I did not.

Q. You seem pleased that you did not. Can I ask you why?

A. Because I never wrote anything for the "National Enquirer." I didn't start writing until I went with some other publications.

Q. Are you familiar with the existence of several lawsuits currently pending against the "National Enquirer"?

A. I have heard of a few of them.

Q. Can you tell me the ones that you are familiar with?

A. The Carol Burnett. It's been in the papers.

Q. All right.

A. Rory Calhoun.

Q. Okay.

A. The Marty Ingels. Paul Lynde. I know there are others, but I don't recall which ones.

Q. Of the four you just mentioned, did you act as a stringer on any of those?

A. I did not.

Q. Did you have any involvement whatsoever in connection with the preparation, publication, investigation, corroboration of any of the articles that are the subject of those lawsuits?

A. I did not.

Mr. Ablon, could I ask him a question off the record?

MR. ABLON: Go right ahead.

(Whereupon, the witness and Mr. Masterson conferred.)

MR. ABLON: Would the reporter just reflect that there's a conference.

THE WITNESS: We can get back on the record now. I gave John South five telephone numbers for people he wanted to talk with on Marty Ingels.

Q. BY MR. ABLON: When approximately did you give him these five numbers?

A. August or September of '79.

Q. Do you recall the names of the individuals whose numbers you gave him?

A. Marty Ingels.

Q. Any others?

A. The 876-9550 number, his office number. The one at the home. Levita Smith; that's Manhattan Beach numbers.

Q. I'm sorry? I didn't hear you. What was that?

A. Levita Smith. She formerly was Mr. Ingels' secretary. Those numbers were defunct. Thom Keith; a Valley number, which is no longer any good now. I know I gave him five phone numbers, because they paid me $50, but I don't remember who the other one was.

Q. You have omitted—

A. It may have been someone I got from Celebrity Service for him.

Q. You may have omitted from your list of pending lawsuits a lawsuit by Mr. Phil Silvers and Mr. Ed Mc Mahon against the "National Enquirer." Are you aware of the pendency of those lawsuits?

A. I probably have heard but just forgot about them.

Q. Did you have any involvement in either of those?

A. No, no involvement. None of the stories that I worked on, other than the five numbers to Mr. South, have been involved in any legal.

• • • •

Q. Does all the printing occur in Montreal?

A. I don't know where they print it. I wouldn't imagine so.

Q. As a matter of course, you prepare the column and then send it to Canada for—

A. No. I take it to the local office here and turn it in to the editor here.

Q. For what period of time have you been the person exclusively responsible for this gossip column?

A. 14 weeks. I've turned in 14 columns.

Q. Prior to this 14-week period, I take it you have had no ongoing responsibility for this of any other column in that publication—

A. No.

Q. —or in any other publication. Do you know if there is any relationship between the "Midnight Globe" and "The Star"?

A. There is not.

Q. Is there any relationship between either of those publications and the "National Enquirer," to your knowledge?

A. There is not. They are competitors.

Q. To your recollection, what is the last article that you did any work on that was published by the "National Enquirer"?

A. "The Happy Marriage of Vic and Sheila Tayback." That was the story lead.

Q. When you were doing work for the "National Enquirer," who or what employee of the "National Enquirer" did you have the most direct contact with concerning the work you were doing?

A. Over what period?

Q. Over the last period that you were there.

A. John South.

Q. Do you know Mr. South's position or function within the "National Enquirer"?

A. He's a senior reporter.

Q. Do you recall approximately when your dealings with Mr. South commenced?

A. I do, indeed. December of 1978.

Q. Who was it that you were dealing with prior to dealing with Mr. South?

A. Tony Brenna, B-r-e-n-n-a.

Q. Do you recall approximately what period of time you were dealing predominantly with Mr. Brenna?

A. I worked exclusively with Tony from October of '77 until November of '78.

Q. Was October of '77 approximately when you first began—

A. It is.

Q. —doing work for the "National Enquirer"?

A. It is.

Q. Over the course of your dealing with the "Enquirer" for roughly a two-year period, were there any other individuals or employees of the "Enquirer" with whom you had dealings on a less regular basis?

A. Yes.

Q. Can you tell me who they would be?

• • • •

A. In the beginning I dealt with Mr. McLachlan. I never could understand Mr. Parmiter, so it was just easier to deal with Mr. South than it was with Mr. Parmiter.

Q. Can you tell me what your understanding was or is of the function or what Mr. South did after he received your lead?

A. Mr. South is a reporter. He would type it up and turn it in. If it was approved, he would call me back and say it was approved. I'd say, "Fine. Call this one and this one and this one and this one. It happened here or happened there," whatever.

Q. Let me just change the topic for a second while I have a thought in my mind. Have you since you began running or being primarily responsible for this gossip column in the "Globe," have you done any writing, any free-lancing, for anyone else?

A. No.

Q. You did testify, though, that you are, under the terms of your arrangement with the "Globe," free to do that if you so choose—

A. I am.

Q. —Is that correct?

A. Yes.

Q. When you say that Mr. South submitted the lead for approval—I believe that's in substance what you have testified to. Is that correct?

A. That's correct.

Q. Who were the people responsible for giving this • • •

• • • •

A. I don't think he roved.

Q. You indicated, I believe, that he is no longer with the "Enquirer"—

A. That's correct.

Q. —To your knowledge?

A. Correct.

Q. Do you know where he is?

A. Florida.

Q. Do you know what Mr. McLachlan is doing in Florida currently?

A. Free-lancing.

Q. Is that for the "National Enquirer," to your knowledge?

A. No. I believe it's for British and German publications. I don't really know.

Q. Do you have any knowledge as to why Mr. McLachlan departed working for the "Enquirer"?

A. I do not. We might save some time if I tell you this: I have no knowledge why anybody stopped working for the "Enquirer."

Q. You previously, I think, also referred to two other gentlemen whose names are Mr. Jenkins and Mr. Gregor.

A. Gregor.

Q. Do you know whether they are personal friends of Mr. Hay?

A. No, I don't.

Q. Do you know whether Mr. South does any writing of articles for the "Enquirer"?

A. He writes them, and then, it's my understanding, they are turned over to research and then to a writer for finalizing, like a rewrite man, I guess it is, with the paper. I don't really know.

Q. Do you know whether or not any employees of the "Enquirer" were paid to have their names appear as the writer of the article in the paper, in the publication, when they, in fact, did not write the article?

A. That question is very muddled. Clarify it.

MR. MASTERSON: I am going to object. I will object to the question on the grounds of lack of relevancy. It is now, you know, at least two hours and 10 minutes that we have been sitting here. If you want to ask a question about the article in issue, I really wish you'd do so.

MR. ABLON: I will get to that, but I think that the operations and procedures used by the "Enquirer" are very germane to this lawsuit.

THE WITNESS: Don't you think coming from an actual employee who has spent time there would be more germane than asking me?

MR. MASTERSON: You took the words right out of my mouth, Mrs. Chesis.

MR. ABLON: Coming from anyone who has any information is equally as germane, and that's what we're here to find out.

THE WITNESS: Get on.

MR. MASTERSON: I think this is a terrible waste of everyone's time.

MR. ABLON: I apologize for taking up your time.

EXHIBIT B

[DEPOSITION OF DAYZHUN JANE CHESIS]

A. Thom Keith.

MR. SELVIN: I'm sorry. I didn't get the name.

THE WITNESS: Thom Keith, T-h-o-m K-e-i-t-h.

Q. BY MR. ABLON: Do you have any information as to anyone else who may have provided any information to the "National Enquirer" with regard to that paragraph that I just read?

A. I don't think so.

Q. How did you learn that Thom Keith provided information with regard to that particular paragraph? Where does your information come from?

A. I heard it someplace, but where, I don't remember.

Q. Do you have any suspicions as to who else may have been responsible for providing any information to the "National Enquirer" with regard to that paragraph I just read?

A. No.

Q. Do you have any information or suspicion with regard to anyone who may have provided the "National Enquirer" with information that was contrary to the paragraph which I just read?

A. No.

Q. The third paragraph states: "Sadly, they charge that it's gotten so bad that Shirley is barely able to make it through the day. And millions of fans of her new TV show, 'Shirley,' don't realize that the seemingly bubbly star is really crying on the inside."

With regard to this third paragraph, do you have any information, hearsay or otherwise, as to who provided any information to the "National Enquirer" with regard to the content of that paragraph?

A. Yes.

Q. Can you tell me who that might be?

A. Bobby Lucas.

Q. Is that the gentleman you referred to in your last deposition as living in the same apartment building that you reside in?

A. He used to.

Q. Does he no longer live in that building?

A. That's right.

Q. Do you know where Mr. Lucas now resides?

A. I have no idea.

Q. Do you have a phone number where Mr. Lucas can now be reached?

A. No.

Q. Can you tell me approximately, to the best of your knowledge, when Mr. Lucas changed his residence?

A. No, not really.

Q. Do you have a rough approximation?

A. In the past month or so.

(Whereupon, the witness and Mr. Wilson conferred.)

MR. WILSON: Excuse me. My client tells me that all these questions, these same questions, have been gone over at the prior deposition. Is that true?

MR. ABLON: Some of the questions have. I did not go through the article on a paragraph-by-paragraph basis, although she did at that time give some general information as to the * * *

* * * *

Q. Do you have any information as to whether or not Mr. Parmiter was the editor involved in the Shirley Jones-Marty Ingels article?

A. Yes.

Q. Was Mr. Parmiter involved in that article?

A. Yes.

Q. To your knowledge, was he the exclusive editor of that article?

A. I don't know that.

Q. Was he an editor of that article?

A. Yes.

Q. Where did you come by this information?

A. He's John South's editor.

Q. How does that help us with regard to your information?

A. Well, when I worked for them and I worked with John South, it would always be for Mr. Parmiter.

Q. You are personal friends with Mr. South; is that correct?

A. I am.

Q. So you have had conversations with Mr. South on one subject or another since the publication of the article we are talking about?

A. I have.

Q. Has Mr. South ever indicated to you expressly that Mr. Parmiter was the editor or an editor involved in this particular article?

A. No.

• • • •

Q. What was the nature of your subsequent discussions with Mr. South concerning this article?

A. It was—it was after I had left the "Enquirer" and after the suit had been filed and just after suit had been filed, I assume.

Q. Had you discussed the subject of this article with Mr. South at any time after you gave him these five telephone numbers prior to the initiation of this lawsuit?

A. Are you referring to—I want clarification on this. Are you referring to the five numbers I gave him.

Q. Yes.

A. No.

Q. So there were no subsequent conversations between those five numbers, the time of your giving those five numbers to him, and the filing of this lawsuit between yourself and Mr. South relative to this article?

A. No.

Q. By the way, by "no," you mean "yes"? I framed my question in such a way that——

A. He and I did not discuss the phone numbers at a later date. I merely gave him the numbers and forget about them.

Q. Did you discuss anything other than those numbers after giving those numbers to Mr. South and prior to the initiation of this lawsuit that relates to this article?

A. Yes.

Q. Do you recall approximately when you had these discussions with Mr. South?

A. September of '79.

Q. First of all, where were you when you had the conversation?

A. I was at home.

Q. Was it a telephone conversation?

A. Yes, it was.

Q. Mr. South was in Florida at the time?

A. I don't know.

Q. He called you?

A. Yes.

Q. What was the substance of this conversation with Mr. South in September of '79?

A. He had spoken with Betty Hager, and she had referred him to me.

Q. I believe you testified as to this conversation at your last seating of the deposition.

A. I did.

Q. Do you recall anything else apart from this reference to Miss Hager that was the subject of that conversation with Mr. South?

A. No.

Q. Any other conversations after you had given Mr. South the five telephone numbers and prior to the initiation of this lawsuit after the September of '79 conversation in which you discussed Betty Hager?

A. You mean pertinent to the article?

Q. Pertinent to the article.

A. No.

Q. By the way, you are personal friends with Mr. South, you have testified.

A. I am.

Q. Do you get to see Mr. South on a regular basis?

A. Unfortunately, no.

Q. How frequently would you say you get to physically visit with Mr. South? That's a very poorly worded question.

A. Whenever he's in town, we try.

Q. Does Mr. South come to town frequently?

A. It depends.

Q. Would you say he's here six times a year?

A. Yes.

Q. Would you say he's here a dozen times a year?

A. No.

Q. Somewhere around six to a dozen, then?

A. Yes.

Q. Do you have any information as to why Mr. South, when he is in town, why he's in town?

A. No.

Q. Any suspicion, or does he indicate to you whether it's on business or for pleasure?

A. No.

Q. Which is it usually, to your knowledge?

A. Business.

Q. When you say "business," is it business of the "National Enquirer" that he's usually here for?

A. Yes.

Q. To your knowledge, within the last year, has Mr. South been in California, in the Los Angeles area, for any personal business reasons?

A. No.

Q. Has Mr. South ever come to California to look for a job?

A. No.

Q. Do you recall having a meeting with Mr. South on January 9, 1980?

A. Not a meeting.

Q. If it wasn't a meeting, what was it?

A. A luncheon.

Q. At that time, did you have any knowledge as to why Mr. South was in town?

A. Yes.

Q. Why was he in town?

A. Business.

Q. Do you have any information as to what that business was?

A. A story.

Q. Did Mr. Smith have any motivation or specific reason to meet with you at that time, to the best of your knowledge?

MR. MASTERSON: You mean did he say that to her?

Q. By MR. ABLON: Did he say that or otherwise indicate to you that there was some particular specific reason why he wanted to speak with you on that day?

A. Not specific, no.

Q. Do you recall in our meeting in this office on January 9th earlier that same day indicating that Mr. South and you were getting together for lunch for the purpose of discussing his trying to find other employment—

A. Yes.

Q. —other than with the "National Enquirer"?

A. Yes.

Q. Do you recall indicating in that conversation that, in fact, Mr. South was in California for the purpose, or at least as one of the purposes, of trying to find other employment?

A. He was entering—yes.

Q. Was that a true statement when you made it?

A. Yes.

Q. So, then, in fact, Mr. South was in California on January 9th for the purpose, to your knowledge, of procuring employment other than with the "National Enquirer"?

A. No.

Q. Explain why not.

A. He was here for work. While here, he was going to investigate the possibilities of other employment.

Q. Do you have any information as to whether or not Mr. South, in fact, so investigated the possibilities of other employment?

A. He spoke with some people, but I don't know who.

Q. To your knowledge, is Mr. South still employed by the "National Enquirer"?

A. Yes.

Q. Do you have any information at all, to the best of you recollection, as to who those people he spoke with may have been?

A. No.

Q. Did he discuss the subject of procuring other employment at this luncheon?

A. Yes.

Q. What did he say specifically as to that effort on his part?

A. That since he had to travel so much out here it would give him more time with his children if he obtained employment here.

Q. Where do Mr. South's children reside?

A. In Florida.

Q. With regard to paragraph 8 of the article, it states: "Every day Ingels calls her on the set and they have screaming fights over the phone. The other day she was shouting, 'Leave Patrick alone. I want him to go to school and make something of himself—I don't want him to be a teenage idol!' "

Do you have any information as to who provided the "National Enquirer" with any information relevant to that particular paragraph?

A. No.

Q. Any suspicions as to who may have provided any information as to that paragraph?

A. Ruth Aarons—Abrams, whatever.

Q. Upon what are your suspicions based?

Q. Do you recall who at the cocktail party mentioned • • •

• • • •

EXHIBIT C

[DEPOSITION OF DAYZHUN JANE CHESIS]

* * * *

* * * Body Shop. I mean, would you know her by sight, as opposed to by name?

A. Not to my knowledge.

Q. Do you have any information as to whether she still works at the Body Shop?

A. No, I don't.

Q. Do you have any information as to anyone else who may have provided the "Enquirer" with information which was the basis of that paragraph?

A. Yes.

Q. Who else might that be?

A. Me.

Q. Do you recall approximately the time when you provided them with this information?

A. September of '79.

Q. Any recollection as to whether it was the beginning of the month, the middle of the month, the end of the month?

A. No, just the month of September.

Q. Did you speak with anyone at the "National Enquirer" to provide them with this information?

A. Yes.

Q. Was it by a telephone conversation?

A. Yes.

Q. Did you make the telephone call, or did the person with whom you spoke make the call?

A. The person with whom I spoke made the call.

Q. Who was that person?

A. John South.

Q. Could you tell me the substance of your conversation with Mr. South at that time?

A. Yes. He called and said he had spoken with Betty Hager and she had told him that I knew the entire story, to call me.

Q. What entire story?

A. Concerning her episode with Marty Ingels and his casting couch.

Q. I believe or at least it's my recollection that you did testify to the substance of that conversation at a previous seating of your deposition. Is that correct?

A. I did.

Q. Was there anything else discussed with Mr. South in that conversation concerning the article? Did you provide him with any other information?

A. No.

Q. Do you have any other information as to who else may have provided information or facts to the "Enquirer" which were the basis of this paragraph of the article?

A. No.

Q. Do you have any information of anyone having provided facts or information to the "National Enquirer" which were contradictory to the statement in the article?

A. No.

Q. Paragraph 13 of the article states: " 'I was furious to find that I was the victim of a classic casting couch routine,' complained one young would-be actress."

• • • •

A. No.

Q. Any information with regard to the truth or falsity of that statement?

A. No.

Q. Have you ever had any personal contact either in person or orally with Mr. Lloyd Kolmer?

A. Don't even know him. Who is he?

Q. I'll read you the article and tell you. Paragraph 18 states: "People who have worked closely with Ingels are throwing up their hands in despair."

Again, this is a separate paragraph, but conceptually I think it is related, so I will include it at this point.

" 'The man is sick and he's hurting my industry,' fumed Lloyd Kolmer. 'I try to reason with him but he rants and raves and then sends me threats. The man is a maniac!' "

Do you have any information with regard to whether

or not Mr. Kolmer contacted the "Enquirer" and gave them the quote that I have just read?

A. No.

Q. Do you have any suspicion as to whether, in fact, Mr. Kolmer had that contact with the "National Enquirer"?

A. If they printed it, he called them.

Q. Do you have any information with regard to whether or not Mr. Ingels was contacted prior to the publication of this article and told either the substance of it or otherwise read the article?

A. Yes.

Q. How did you come by this information?

A. From Mr. John South.

Q. Did you have a discussion with Mr. South at which this previous telephone call to Mr. Ingels came up?

A. Yes.

Q. Do you recall approximately when that conversation was?

A. Prior to publication.

Q. Do you have any information or recollection as to how close or proximate your conversation with Mr. South was to the time he actually spoke with Mr. Ingels?

A. No.

Q. Can you please relate to us what the substance of that conversation was?

A. Yes. John thought it was quite funny. He had called Marty and read him the article, and Marty had said, "I'm flattered, even though there's no truth in it." He said, "Print it."

Q. When you said he said "Print it," are you saying that Mr. Ingels—

A. Mr. Ingels.

Q. —had told Mr. South to print it?

A. Yes. I believe so.

Q. This is your recollection of what Mr. South told you with regard to Mr. Ingels' conversation with him?

A. Yes. He said Marty was quite flattered and very witty and amused on the phone.

EXHIBIT D

[DEPOSITION OF DAYZHUN JANE CHESIS]

* * * *

Q. Does this quotation suggest, Mrs. Chesis, that, or at least were you trying to suggest by this quotation that the "Enquirer" would go to someone at the City Slicker and, in effect, put words in their mouth and then offer to pay them for saying those words?

A. No. No way.

Q. On page 9 of the transcript, Mrs. Chesis, approximately two-thirds of the way down a statement is attributed to you as follows: "And I know two hours later I got a call from the Enquirer. 'What are you going to do at the offices of Hayes & Hume?' "

Is that an accurate transcription of what you said to Mr. Ingels in the course of your conversation with him?

A. I think whoever typed this transcript must have missed something I said before that.

Q. I'm asking you right now whether or not the portion that I just read to you is an accurate transcription of what you said to Mr. Ingels?

A. That's a portion of what I said to him.

Q. The portion that I have just read to you, is it an accurate portion?

A. Yes.

Q. Is it, in fact, an accurate statement? Is it true?

A. Yes.

Q. Can you tell me who you got a call from at the "National Enquirer"?

A. I had called and left word for John South that I had received a subpoena, and I gave Nancy Bryson the case number and everything that was off of it. They called back and wanted to know what I was going to do and when.

Q. When you say "they called back," who specifically?

A. John. I think I told him his guess was as good as mine but that it was on January 9th.

Q. When you say "it was on January 9th," that was the day on which you were speaking with Mr. South?

A. No, no. That's the date on the subpoena. This would be—I'd say this would be either the last week of November or the first week of December that I received it. I don't remember.

Q. Starting on the bottom of page 12 of the transcript, you recount—at least if this is an accurate transcription—you recount a story concerning an episode regarding Marty Ingels.

A. Which I think is a very funny story, and it was told in humor.

Q. Is this an accurate version of what transpired?

A. Yes, it is.

MR. MASTERSON: What is? Just so I can orient myself, where exactly are you?

MR. ABLON. I'm referring now to the statement on the bottom of page 12, which starts out: "All right. They did a story on Marty about two years ago. Tony Brenner did it. Tony even wanted to speak to you and Laveta said that you were very busy. And he said ask him if he'd rather I print the story about how he married a wealthy woman cause he was • • •

• • • •

• • • don't know that much about it.

Q. Were there any personalities or celebrities that you had heard anyone say or suggest that the "National Enquirer" was out to get for any reason?

A. Not the way you're saying it, no.

Q. In what way?

A. That they would love to get a story on, but not detrimental.

Q. Have you had any contact with anyone at the "National Enquirer" since the last date of your deposition on May 22nd?

A. I have.

Q. With whom have you spoken?

A. John South.

Q. Is John South the only person who is employed by or involved with the "National Enquirer" that you have spoken to?

A. He is.

Q. Have you spoken to him only once?

A. Only once.

Q. When was that, approximately?

A. Just a minute, and I will tell you exactly. Oh, no, it was before. I'm sorry. It was May the 18th.

Q. Do you recall the nature of that conversation?

A. Yes. "Bring your children the next time you come out here."

Q. Anything else? Did you discuss at all this—

A. We do not discuss this. We made it a point never to mention Marty Ingels or Shirley Jones or any of the other cases pending.

MR. ABLON: Could we take a five-minute break?

MR. MASTERSON: Sure.

(A brief recess was taken.)

Q. BY MR. ABLON: In connection with the Jones and Ingels article, did Mr. South confer with you at all for background for that particular article?

A. Only as I stated previously, the Betty Hager.

Q. You also, I believe, indicated that you did provide him with some phone numbers.

A. I did.

Q. Other than those two instances, was there any other collaboration or discussion between yourself and Mr. South with regard to this article?

A. No.

Q. Did you in any other fashion provide him with any assistance with regard to this article?

A. No.

Q. Let me ask you something else: Mr. South testifies at his deposition—and I will read just a portion of it from page 143, lines 10 through 15: "There were other examples of where I could not speak personally to people who were supplying information on this story because they were afraid to speak to the 'National Enquirer' direct because of an express fear of Mr. Ingels, and, thus, they would speak only to a source that they knew extremely well and trusted implicitly."

EXHIBIT E

[TESTIMONY OF IAIN CALDER]

DIRECT EXAMINATION

BY MR. BRONSON:

Q. Mr. Calder, where do you live?

A. I live in Florida, in Del Rey Beach.

Q. By whom are you employed?

A. The National Enquirer.

Q. In what capacity?

A. I'm editor and president of the National Enquirer.

Q. And how long have you been editor and president?

A. Well, I was made editor before I was made president, so I've held both functions for about four years now.

Q. That would take us back to 1976?

A. I was certainly editor in 1976.

Q. Okay.

A. I may have been president late '76.

Q. And the publisher and owner we've been told in the testimony is Mr. Generoso Pope, Jr.

A. That is correct.

Q. And are you the No. 2 man, so to speak, to the owner and publisher, Mr. Pope?

A. Yes, that's correct.

Q. And has that been the case for the past four years or so?

A. Yes, it has.

Q. Now, we are here on Monday, and maybe we can go over the people that we have heard so far in the testimony, and correct me if I'm wrong.

What I've tried to do here on this—

• • • •

Q. BY MR. BRONSON: Mr. Calder, I understand that you treat retractions in the gossip column differently than you do with respect to other articles?

A. I'm not sure—As far as what is concerned—

Q. As far as using a headline such as "Correction" is concerned.

A. Well, we have never used a correction on a gossip column headline in a retraction, as far as I can remember.

Q. And you have used a headline in a retraction before, have you not ?

A. In a story?

Q. Yes, sir.

A. Yes.

Q. You have used a headline, and it says, 'Correction"?

A. I don't emember the exact word.

Q. But you have used a headline on a retraction in an article?

MR. MASTERSON: Your Honor, I object. This is now irrelevant. We are on articles, not items.

THE COURT: No, I don't think it it. I think it is perfectly proper for him to pursue this. Overruled.

THE WITNESS: I don't remember the exact words.

Q. BY MR. BRONSON: Well, who is responsible for doing these kind of things at your place the last four years?

A. Who is responsible for deciding if a correction is going out? Is that what you are asking me?

Q. Yes. And how it's done.

A. It's mine.

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Attorneys for Plaintiffs

SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C 305009

SHIRLEY JONES and MARTY INGELS,
Plaintiffs,

vs.

NATIONAL ENQUIRER, INC., *et al.*,
Defendants.

[Filed May 28, 1981]

DECLARATION OF MARTY INGELS IN SUPPORT OF OPPOSITION TO MOTION TO QUASH SERVICE OF SUMMONS ON JOHN SOUTH AND IAIN CALDER

Date: June 2, 1981
Time: 9.00 a.m.
Dept. 80

DECLARATION OF MARTY INGELS

I, MARTY INGELS, declare as follows:

1. Since approximately 1977, I have at all times resided with my wife, Shirley Jones, at my current resi-

dence in Beverly Hills, California. I resided in California for several years before that.

2. Approximately 2 to 3 weeks prior to the publication of the article which is the subject of my lawsuit, I received a telephone call, at my Beverly Hills residence, from Mr. John South, under whose by-line the article appeared, who stated that he would like to read to me a story that the National Enquirer intended to publish. My recollection is that the story which he read to me was virtually identical to, if not identical to, the article that was ultimately published and which is the subject of this lawsuit.

3. After reading the entire story to me, word for word, Mr. South asked me words to the effect of "How do you feel about that? Do you have anything to say?"

4. As a result of the reading of this article on the phone, I became physically ill and upset, evidencing a severe physiological reaction to this unjustified article. I put Mr. South on hold, and vomited and became quite ill.

5. I came back to the phone, and indicated to Mr. South that he could not possibly be printing that article, that it was all untrue, and that he could not possibly have spoken to anyone of any credibility in obtaining his facts for the story. I never said to him that they should print this pack of lies.

If called upon to testify, I can competently testify to the facts stated herein. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of May, 1981, at Beverly Hills, California.

/s/ Marty Ingels
MARTY INGELS

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
DEPT. 80

DATE: June 2, 1981

HONORABLE Eli Chernow, JUDGE

Linda Markmiller, DEPUTY CLERK

C 305009

SHIRLEY JONES, *et al.*	Counsel for Plaintiff Paul Ablon
vs.	
NATIONAL ENQUIRER, INC., *et al.*	Counsel for Defendant Rogers & Wells for defendants, John South and Iain Calder by: John Karaczinski

NATURE OF PROCEEDINGS

Motion of defendants, John South and Iain Calder, to quash service of summons and complaint	Continued for additional papers from both sides due by July 15, 1981, responses due by July 29, 1981.

Continued to 8-5-81 in Dept. 80 at 9:00 a.m.

On court's own motion

Notice Waived

MINUTES ENTERED June 2, 1981

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South and Calder

SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C305009

SHIRLEY JONES, *et al.*,
Plaintiffs,

v.

NATIONAL ENQUIRER, INC., *et al.*,
Defendants.

[Filed Jul 15, 1981]

SUPPLEMENTAL MEMORANDUM IN SUPPORT OF MOTION TO QUASH SERVICE ON JOHN SOUTH AND IAIN CALDER

Date: August 5, 1981
Time: 9:00 a.m.
Dept: 80

• • • •

C. *Special Considerations.*

The cases also make clear that "the 'minimum contacts' test of *International Shoe* is not susceptible of mechanical application." *Kulko* v. *Superior Court*, *supra*, 436 U.S. at 92. In determining whether assertion of extraterritorial jurisdiction is proper courts will look to the consequences of its assertion on other constitutionally protected policies.

1. *Individuals.*

International Shoe was in part an attempt by the U.S. Supreme Court to come to grips with the reality of large interstate corporations doing interstate business. Most of the cases in which extraterritorial jurisdiction has been upheld involve such entities. In most the question has been, in Judge Learned Hand's words in a case that paved the way for *International Shoe*, "what dealings make it just to subject *a foreign corporation* to local suit." *Hutchinson* v. *Chase & Gilbert, Inc.*, 45 F.2d 139, 141 (2d Cir. 1930) (emphasis supplied).

The situation of an individual is different, however, and it is two individuals who are targeted here. Whatever level of contacts due process may tolerate as sufficient when jurisdiction is sought over a foreign corporation (compare *International Shoe*, *supra*, with *World-Wide Volkswagen*, *supra*), even closer care is appropriate when as here constitutional protection is asserted by foreign individuals.[4]

Courts have noted that jurisdiction over foreign individuals may be impermissible in situations where for corporations it might be tolerated. *See, e.g., Kipperman* v. *McCone*, 422 F. Supp. 860, 875 (N.D. Cal. 1976); *Marra* v. *Shea*, 321 F. Supp. 1140 (N.D. Cal. 1971). A

[4] Thus, for example, a standard casebook on civil procedure divides its chapter on "Jurisdiction 'of the Person'" into "Section 1. Natural Persons"and "Section 2. Corporations." R. Field & B. Kaplan, *Civil Procedure* 625, 650 (temp. 2d ed. 1968).

natural person has certain reasonable expectations as to where he may be summoned to defend himself that a corporation does not. An individual is likely to suffer personal inconvenience that in the corporate context does not exist.

Jurisdiction of a corporation does not carry with it jurisdiction over the corporation's employees. Here the corporation, which is the real target of the plaintiffs' claim, has not challenged this Court's jurisdiction. Nothing in the complaint or in plaintiffs' opposition discloses any substantial reason why these two Florida employees were sued at all, other than perhaps for harassment. This suit can proceed very well without their being dragged across the country to be parties.

2. *First Amendment.*

Editor Calder and reporter South are sought for suit in connection with publishing activities. Calling them to answer in California unavoidably affects and dampens the exercise of First Amendment rights by them and other journalists. The cases make clear that that effect cannot be ignored in weighing the propriety of jurisdiction—whether considered as a First Amendment matter alone,[5] or as a First Amendment aspect prominent among the policy considerations mandated by *International Shoe*.

There is nothing unusual in looking even to non-constitutional policy considerations to bar extraterritorial jurisdiction. In *Kulko* v. *Superior Court*, *supra*, for example, the Supreme Court recently noted that one reason it would be inappropriate to allow jurisdiction based on a child's intermittent visits to a local parent was that to do so "would discourage parents from en-

[5] "[T]he First Amendment could be regarded as giving *forum non conveniens* special dimensions and constitutional stature in actions for defamation against publishers and broadcasters." *Buckley* v. *New York Post Corp.*, 373 F.2d 175, 183-84 (2d Cir. 1967) (Friendly, J.).

tering into reasonable visitation agreements," 436 U.S. at 93; likewise, to make jurisdiction depend on whether visits were resisted or not "would impose an unreasonable burden on family relations," *id.* at 98. The same attention to policy is visible in decisions like *Davis* v. *Farmers Co-operative Equity Co.*, 262 U.S. 312 (1923), in which Mr. Justice Brandeis for the Court held, relying on the Commerce Clause, that the burden on interstate commerce would be too great if interstate railroads were subjected to suit in states where they merely solicited business.

Not surprisingly, many cases have used similar reasoning to hold that the constitutional weight of the First Amendment can bar extraterritorial jurisdiction over interstate publishing companies—not even, as here, their individual employees. Special considerations are recognized when the attempt is made to haul before a distant forum a newspaper or its employees. The First Amendment, the Supreme Court has often stated, is concerned with preventing judicial proceedings which threaten a "chilling effect" on the exercise of First Amendment freedoms. *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965). Courts have recognized that the First Amendment could be drained of meaning if publishers were required to defend libel suits in every forum where copies of their newspapers were circulated. *Cf. Washington Post Co.* v. *Keogh*, 365 F.2d 965, 968 (D.C. Cir. 1966), *cert. denied*, 385 U.S. 1011 (1967) (summary procedures essential to assure "freedom from the harassment of lawsuits").

This has been emphasized in a series of cases in the U.S. Court of Appeals for the Fifth Circuit, the leading one of which is *New York Times Co.* v. *Connor*, 365 F.2d 567 (5th Cir. 1966). There the court held that newspaper circulation plus solicitation of advertising plus alleged libel in a state still did not suffice for extraterritorial jurisdiction. The Court held that "First Amendment considerations surrounding the law of libel require

a greater showing of contact to satisfy the due process clause then is necessary in asserting jurisdiction over other types of tortious activity. This is not a new proposition." 365 F.2d at 572. Earlier the same court had referred to "the inherent danger or threat to the free exercise of the right of freedom of the press if jurisdiction in every state can be inferred from minimal contacts." *Walker* v. *Savell*, 335 F.2d 536, 544 (5th Cir. 1964).

Subsequent Fifth Circuit cases pointed out that although weighty, First Amendment considerations are not an absolute bar. But the great significance of the constitutional guarantee in determining the issue of extraterritorial jurisdiction was emphasized in that court's most recent pronouncement on the subject:

> "[W]e have woven, in regard to entities clothed with First Amendment protections, a tighter due process net around state power than is true with regard to other entities.
>
> • • • •
>
> When a court attempts to assess whether jurisdiction over a defendant is reasonable, First Amendment considerations are a significant factor to be weighed." *Edwards* v. *Associated Press*, 512 F.2d 258, 266 (5th Cir. 1975).

These considerations have been approved in decisions of other jurisdictions. *See, e.g., Margoles* v. *Johns*, 333 F. Supp. 942 (D.D.C. 1971), *aff'd*, 483 F.2d 1212 (1973); *Gonzales* v. *Atlanta Constitution*, No. 78 C 2969 (N.D. Ill. Jan. 10, 1979) (copy attached). As Judge Medina commented in *Buckley v. New York Post Corp.*, 373 F.2d 175, 184 (2d Cir. 1967), "I am not shocked to see the principles embedded in the First Amendment applied to the expanding subject of jurisdiction over the person." (Concurring opinion.)[6]

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[6] We recognize that one opinion from the Court of Appeals of another district—although it *rejected* a plaintiff's attempt to serve a publisher in another state—contained a dictum it that did not

Indeed, the Comment of the Judicial Council to the California long-arm statute, Code of Civil Procedure § 410.10, expressly recognizes that what is reasonable so far as the assertion of jurisdiction is concerned may be more limited in a defamation case precisely because of the First Amendment values jeopardized in such an action.[7]

The potential chilling effect on individual reporters and editors of exercising jurisdiction based only on an "effect" in the forum caused by a news story is, if anything, even greater. A reporter will certainly be chilled in exercising his right to free expression if a libel plaintiff in any state can subject the reporter or editor to that state's judicial power simply by filing a complaint and mailing a letter. Such a result would increase the "risk of inducing a cautious and restrictive exercise of the constitutionally guaranteed freedoms of speech and press." *Gertz* v. *Robert Welch, Inc.*, 418 U.S. 323, 340 (1974).

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consider the First Amendment to have a special role in determining the propriety of asserting extraterritorial jurisdiction. *Sipple* v. *Des Moines Register and Tribune Co.*, 82 Cal. App. 3d 143, 147 Cal. Rptr. 59 (1978). The dictum of that First District opinion, however, is against the weight of authority. Nor can it be assumed to reflect the law in the state of California, particularly after the United States Supreme Court's decision in *Kulko* v. *Superior Court, supra*, reminded of the constitutional limitations on the California long-arm statute and the need to look to broader policies in applying it.

[7] The Comment of the Judicial Council, at 474 provides:

> "Some actions, such as defamation, affect interests of a defendant that are protected by the First Amendment of the United States Constitution. For a state to have judicial jurisdiction over such actions, it may be that the defendant must have a closer relationship to the state, or have caused effects of a more substantial nature in the state, than would otherwise be required."

See also *Restatement (Second) Conflicts of Laws* § 37 (1971) (caveat, comment d); J. Weinstein, *Trends in Civil Practice*, 62 Colum. L. Rev. 1431, 1436 (1962).

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SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C 305009

SHIRLEY JONES and MARTY INGELS,
Plaintiffs,

vs.

NATIONAL ENQUIRER, INC., ETC., *et al.*,
Defendants.

[Filed Jul. 31, 1981]

FURTHER DECLARATION OF PAUL S. ABLON IN SUPPORT OF OPPOSITION TO DEFENDANTS JOHN SOUTH AND IAIN CALDER'S MOTION TO QUASH SERVICE OF PROCESS

Date: August 5, 1981
Time: 9.00 a.m.
Dept: 80

DECLARATION OF PAUL S. ABLON

I, PAUL S. ABLON, declare as follows:

1. I am an attorney duly licensed to practice before all courts of the State of California, and am an associ-

ate of the law firm of Hayes & Hume, attorneys for the plaintiffs in the above subject action. I have reviewed the files in this matter in preparation of this declaration.

2. Request is hereby made that this court take judicial notice, pursuant to Evidence Code, § 452, that defendant South has filed an affidavit in the matter of *Marianna Liu and Kwot Kit Faan vs. National Enquirer, Inc., et al.*, Superior Court of the State of California, County of Los Angeles, No. C 172266, in support of motion for summary judgment, heard on April 28, 1978, at 9:00 a.m. in Dept. 83, and that defendant South has also filed an affidavit on or about May 13, 1980, in this lawsuit in support of defendants' opposition to motion to compel disclosure of confidential news sources. This court should also take judicial notice that the declaration filed in this matter by John South in connection with the motion to compel was notarized and signed in the state of Nevada.

3. The previous affidavit of John South filed in this matter, in connection with the motion to compel production of documents, related to the objections by the National Enquirer to such production based upon a claim of an alleged newsman's source privilege. Thus, Mr. South's declaration in opposition to that motion was of personal benefit to him. As a newsman, he, along with the publication, could claim the benefit of such a newsman's privilege, if any existed. In fact, at his deposition, such a privilege was asserted on his behalf.

4. The fact that Mr. South's affidavit in opposition to motion to compel production of documents stated that it was not intended to make a general appearance is of no legal effect. The law is clear that the nature of the acts, not the intention of the defendant, determines whether or not a general or special appearance has been made. *Pease vs. San Diego*, 93 Cal.App.2d 746 (1949); *Slaybaugh vs. Superior Court*, 70 Cal.App.3d 216, 221 (1977).

5. In the case of *Wilson vs. Barry*, 102 Cal.App.2d 778 (1951), it was concluded that "likewise the filing of an affidavit other than for the purpose of presenting matters bearing on the court's jurisdiction, constitutes a general appearance". This opinion is buttressed by *Chitwood vs. County of Los Angeles*, 14 Cal.App.3d 522 (1971), which indicated that:

> "While § 1014 of the Code of Civil Procedure lists acts which amount to a general appearance, that list is not necessarily exhaustive. [citation omitted]. The underlying theory of a general appearance is that it is effected when a defendant *takes any part in the action or proceedings*, e.g., by pleading or by participating in the trial, other than to specifically contest the court's jurisdiction over his person." (At p. 526.) (Emphasis added.)

Further, the California Supreme Court has cited *Wilson vs. Barry, supra*, with approval in the case of *Greene vs. Committee of Bar Examiners*, 4 Cal.3d 189, 200 (1971). (Copy of *Wilson* is attached hereto as Exhibit A for this court's convenience.)

It is strenuously urged that, pursuant to *Wilson, supra*, Mr. South made what constituted a general appearance by filing his affidavit in opposition to plaintiffs' motion to compel production of documents. Even if the poorly reasoned distinction of *Wilson* contained in *Slaybaugh vs. Superior Court, supra*, (that only affidavits requesting relief by a party himself constitutes a general appearance) is accepted, here South himself stood to benefit by any decision of the court finding a newsman's privilege. It would sustain a newsman's privilege objection made on his behalf at his deposition.

6. However, even if this court were to conclude under the authorities stated that Mr. South did not make a general appearance by filing the aforesaid affidavit, again, this court must consider this fact as one yet addi-

tional fact in assessing the reasonableness and fairness of subjecting Mr. South to jurisdiction in California. It hardly seems fair that Mr. South would be permitted to evade California jurisdiction while at the same time sending into this state, in connection with various motions, affidavits to support the National Enquirer's position. For, if Mr. South can so conveniently participate and assist the National Enquirer in its defense in this matter, it is not apparent why he cannot do so for himself.

I declare under penalty of perjury that the foregoing is true and correct, and if called upon to testify, I could competently testify thereto.

Executed this 31st day of July, 1981, at Beverly Hills, California.

/s/ Paul S. Ablon
PAUL S. ABLON

SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 80 HON. ELI CHERNOW, JUDGE

No. C 305009

SHIRLEY JONES, *et al.*,
Plaintiffs,

vs.

NATIONAL ENQUIRER, INC., *et al.*,
Defendants.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

• • • •

[1] LOS ANGELES, CALIFORNIA,
WEDNESDAY, AUGUST 5, 1981
9:30 A.M.

THE COURT: No. 6, Jones versus the National Enquirer.

MR. KESTER: Good morning, Your Honor. I am John Kester, representing the moving party in this case, Iain Calder and John South. We are appearing especially [*sic*] on their behalf.

MR. SELVIN: I am Paul Selvin, local counsel for the moving party.

MR. ABLON: Good morning, Your Honor. I am Paul Ablon, A-b-l-o-n, from the law firm of Hayes and Hume, representing plaintiffs, Marty Ingels and Shirley Jones.

• • • •

[24] The COURT: What about the privilege subject? Surely the court should draw the reasonable inference that Mr. South did some kind of investigation in California by telephone or in person before he wrote the article.

MR. KESTER: I think the court might draw that inference that he had made phone calls, but I don't think Your Honor can draw the inference that he was traveling in California. There is nothing in the record that would

support that inference. And the burden, Your Honor, is on the plaintiffs to establish the jurisdictional facts.

What I am saying is that they have not done so in this case. Now, there's one thing since Mr. Ablon mentioned it, I received on my desk Monday morning a declaration of Mr. Ablon that apparently was filed last Friday afternoon in which the plaintiffs totally shifted their ground and came up with a new argument for jurisdiction in this case. They are saying that they can have jurisdiction on Mr. South because he filed an affidavit.

THE COURT: Oh, that's nonsense.

MR. KESTER: Okay. I will pass that.

• • • •

[27] MR. KESTER: I have not had an opportunity to respond to Mr. Ablon's declaration or affidavit filed Friday. I don't intend to unless Your Honor—

THE COURT: I agree.

MR. KESTER: —would like.

THE COURT: That's fine.

• • • •

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
DEPT. 80

DATE Aug. 5, 1981

HONORABLE Eli Chernow, JUDGE

Linda Markmiller, DEPUTY CLERK

/s/ Lawanda Johnson
Reporter

(Parties and counsel checked if present)

C 305009

SHIRLEY JONES, *et al.* Counsel for Plaintiff

vs. Paul Ablon ✓

NATIONAL ENQUIRER, INC., *et al.* Counsel for Defendant
Williams & Connolly
John G. Kester ✓

Selvin & Weiner
Paul P. Selvin ✓

NATURE OF PROCEEDINGS.

Motion of defendants, John South and Iain Calder, to quash service of summons and complaint
(FIRST CONT)

Motion is argued. Ten days leave to lodge with the court supplemental authorities. Matter to stand submitted thereafter without further argument.

MINUTES ENTERED Aug. 5, 1981
COUNTY CLERK

SUPERIOR COURT OF THE
STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. C 305 009

SHIRLEY JONES and MARTY INGELS,
Plaintiffs,

vs.

NATIONAL ENQUIRER, INC., *et al.*,
Defendants.

MEMORANDUM OF DECISION

This case is based upon an article published in the National Enquirer, which article was allegedly libelous as to plaintiffs Shirley Jones and Marty Ingels. The motion before the Court is to quash service of process on two individual defendants claimed to be legally responsible for the article. One, John South, was the author; the other, Iain Calder, was the editor of the magazine. Both were employees of defendant National Enquirer; both reside in Florida. These individual defendants assert that California courts lack personal jurisdiction over them, relying upon the recent U.S. Supreme Court decisions in *World-Wide Volkswagen v. Woodson*, 444 U.S. 286 (1980), and *Kulko v. California*, 436 U.S. 84 (1978). The motion before the Court does not address jurisdiction over the publication and its publisher. There is no contention that National Enquirer may not properly be required to appear in California and defend this action.

In the first analysis, it is necessary to examine the contacts between the individual defendants on the one hand, and the forum state, California, on the other, to

determine whether there is a sufficient nexus for California to assert jurisdiction over these individuals. *International Shoe v. Washington*, 326 U.S. 310 (1945). From the record in this case, it appears that neither South nor Calder maintained any residence or business office within California. Editor Calder did not enter California nor even make telephone calls into the state during his work on the Ingels article. Reporter South made a few telephone calls into California, including one in which he read the substance of the article to plaintiff Ingels shortly before its publication. In addition, it may fairly be inferred from the record before the Court that Reporter South visted California at least once for purposes relating to the article. The totality of such contacts, in this Court's view, are insubstantial.

The most substantial basis for asserting a claim against the individual defendants is that both defendants knew, or certainly should have known, that the article would be published and read in plaintiffs' home community within California, that plaintiffs' personal and business reputations were likely to be substantially damaged by the publication, and that such substantial damage experienced by plaintiffs would occur in their home and business communities within California. Moreover, unlike the case of *World-wide Volkswagen, supra*, the location of the damage to the plaintiffs was not incidental nor remote from the business of defendant. The value of the article to the publishers was precisely that it was a sensational story that would expose unfavorable aspects of well-known people and, thus, would cause embarrassment and damage to the reputations of the plaintiffs. Thus, plaintiffs contend that California's jurisdiction extends sufficiently far to require the individual defendants to appear and answer for the alleged falsity of the article.

Plaintiffs contend that this case is analogous to one in which a defendant ships a dangerous and defective product into the state, which leads to an accident within the

state, causing substantial damage to a California resident. Indeed, if the injury complained of in this case involved a physical injury sustained as a result of a physically defective magazine shipped into California, then the analysis would end at this point and the motion to quash would be denied. *Buckeye Boiler v. Superior Court*, 71 Cal.2d 893 (1969).

The question presented by this case is whether further consideration is required because the case involves First Amendment freedom of expression and because the defendants sought to be brought into this jurisdiction are employees of the publisher. At bottom, the test for the validity of a state's assertion of jurisdiction over a nonresident defendant is not based upon whether the state's geographic boundaries were crossed, nor upon an overly refined analysis of how long a defendant spent on phone calls to California, but rather it is based upon an analysis of the fundamental fairness involved in light of traditional notions of justice. *International Shoe, supra.* The question becomes, then, whether, in assessing the fundamental fairness of the proposed assertion of jurisdiction, the Court should weigh and consider additional factors in cases where freedom of the press is involved. There appears to be some authority to the contrary in California, *Sipple v. Des Moines Register*, 83 Cal.App.3d 143; *McGuire v. Brightman*, 79 Cal.App.3d 776.[1] However, as the U.S. Supreme Court has made abundantly clear in its *World-Wide Volkswagen* and *Kulko* opinions, California may not assert jurisdiction beyond that which

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[1] **(But see Comment of Judicial Council to C.C.P. § 410.10, "Bases of Judicial Jurisdiction Over Individuals," (9):**

> **"Some actions, such as defamation, affect interests of a defendant that are protected by the First Amendment of the United States Constitution. For a state to have judicial jurisdiction over such action, it may be that the defendant must have a closer relationship to the state, or have caused effects of a more substantial nature in the state, than would otherwise be required."**

is permitted under the United States Constitution. The most comprehensive discussions of the effects of the First Amendment, as it relates to the reach of a state's jurisdiction over nonresidents, are found primarily in the decisions of the U.S. Court of Appeals for the 5th Circuit in *New York Times v. Connor*, 365 F.2d 567 (1966); *Walker v. Savell*, 335 F.2d 536 (1964), and *Edwards v. Associated Press*, 512 F.2d 258 (1975), and in *Buckley v. N.Y. Post*, 373 F.2d 175 (2d Cir. 1967). These cases reached varying results as to whether a particular publication could be required to appear and answer particular complaints. However, the cases seem to be in agreement that First Amendment considerations should be weighed in the balance of fundamental fairness in resolving whether a state can compel a nonresident defendant to appear and defend an action. This proposition of federal constitutional law is binding upon this Court.

Applying First Amendment considerations, it appears to this Court that the balance favors the individual defendants. Whether or not the individual defendants South and Calder are required to appear as parties in this case, plaintiffs' rights can be fully satisfied. The publisher, who is the financially responsible party, will remain in the action regardless of the outcome of this motion. Indeed, it has not even been suggested that the National Enquirer itself is beyond California's jurisdiction. There is no reason to believe that plaintiffs' ability to win or collect a judgment would be enhanced if judgment were awarded jointly against the National Enquirer and its two employees, rather than the Enquirer alone. South and Calder may still be required to give testimony under oath at discovery deposition. Other discovery devices are available to bring to light any knowledge or information these individuals have relating to this action.

Indeed, in balancing the interests of all parties to this action, it appears that the principal practical effect of holding the individual defendants as parties to this law-

suit would be to facilitate plaintiffs' claims for punitive damages against the individuals. Such claims are asserted in addition to plaintiffs' claims for such damages against the publisher. Surely the right of a plaintiff to punish a defendant resident of a remote jurisdiction, and to receive damages beyond those necessary to compensate him for his injury should not weigh heavily on the constitutional scale of fundamental fairness. On the other hand, if reporters and editors are required to appear in remote jurisdictions and defend against claims for punitive damages, it is foreseeable that such actions would have a chilling effect on reporters and editors.

It may not be unfair to hold a publisher to account for compensatory and punitive damages in a remote jurisdiction if a sensational story he publishes is false. After all, it is the publisher who balances risk and reward in establishing the character of his publication, and it is the publisher who stands to make substantial profits if he publishes true stores of widespread interest.

It is quite another matter to hold magazine employees to the same accounting. A reporter or editor who suffers an award of punitive damages would not be entitled to reimbursement from his employer, nor to indemnification based on any insurance policy the employee or the employer might have. Thus, punitive damages would come from the employee's own pocket. Few would be willing to risk writing or editing controversial articles for national publications if they could be required personally to appear in remote jurisdictions as individual defendants and possibly suffer judgments for punitive damages, and surely pay unlimited litigation expenses. Thus, prudent reporters and editors would have an incentive to avoid controversial stories vastly disproportional to the rewards they could expect for their diligence and industry in uncovering truthful but controversial stories, especially stories adverse to wealthy or powerful individuals. If such a state of affairs were to come to pass, the informed

public would be the loser. cf. *New York Times v. Connor, supra.*

Finally, quashing service in this case does not necessarily even defeat plaintiffs' right to recover punitive damages from the individual defendants. If their conduct is sufficiently wrongful, punitive damages might well be available if suit is brought in defendants' home jurisdiction, or in some other jurisdiction with which their contacts are more substantial.

For the foregoing reasons, the motions to quash are granted.

DATED: October 2, 1981.

/s/ Eli Chernow
ELI CHERNOW
Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
DEPT. 80

Date October 2, 1981

HONORABLE Eli Chernow, JUDGE

S. Percy, DEPUTY CLERK

C 305 009

SHIRLEY JONES, *et al.* — Counsel for Plaintiff
Hayes & Hume
Paul S. Ablon

vs.

NATIONAL ENQUIRER, INC., *et al.* — Counsel for Defendant
Williams & Connolly
John G. Kester
Selvin & Weiner
Paul P. Selvin

NATURE OF PROCEEDINGS

Motion of defendants, John South and Iain Calder, to quash service of summons and complaint

(submitted Aug. 17, 1981)

Motion is granted pursuant to Memorandum of Decision, signed and filed this date.

Counsel are notified by way of this minute order, along with a conformed copy of the Memorandum of Decision, deposited in the U.S. Mail this date.

Law Offices
HAYES & HUME
A Professional Corporation
132 South Rodeo Drive
Beverly Hills, California 90212
Telephone (213) 278-8989

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

Case No. C 305 009

SHIRLEY JONES and MARTY INGELS,
Plaintiffs,

vs.

NATIONAL ENQUIRER, INC., ETC., *et al.*,
Defendants.

[Filed Oct. 28, 1981]

NOTICE OF APPEAL AND APPELLANT'S DESIGNATION OF RECORD FOR APPEAL

NOTICE IS HEREBY GIVEN that plaintiffs, SHIRLEY JONES and MARTY INGELS, appeal, pursuant to California Code of Civil Procedure Section 904.1 (c), to the Court of Appeals of the State of California, Second Appellate District, from that certain Order made and entered by the Court, The Honorable Eli Chernow, in this action on October 2, 1981.

Such Order reads as follows:

> "Motion of defendants, John South and Iain Calder, to quash services of summons and complaint.
>
> (submitted Aug. 17, 1981)
>
> Motion is granted pursuant to Memorandum of Decision, signed and filed this date."

NOTICE IS FURTHER GIVEN that Plaintiffs hereby designate the following papers and records on file or lodged with the Clerk of the above-entitled Court for incorporation in the Record of Appeal, and hereby request the preparation of a Clerk's Transcript, which shall include:

1. Notice of Motion of Defendants, John South and Iain Calder, to quash service of Summons and Complaint, and Points and Authorities, and affidavits in support thereof, served on or about April 30, 1981, and filed with this Court on or about April 30, 1981, scheduling the hearing thereon for May 18, 1981;

2. Notice of Motion of Defendants, John South and Iain Calder, to quash service of Summons and Complaint, and Points and Authorities, and affidavits in support thereof, served on or about May 12, 1981, and filed on or about May 12, 1981, setting the hearing thereon for June 2, 1981;

3. Plaintiffs' opposition to Motion to Quash Service of Summons and Complaint of John South and Iain Calder, dated May 27, 1981, and declarations in support thereof, filed in the Superior Court on May 28, 1981;

4. Declaration of Marty Ingels in Support of Opposition to Motion to Quash Service of Summons on John South and Iain Calder, dated May 26, 1981, and filed on May 29, 1981.

5. Declaration of Stephen S. Monroe in Support of Opposition to Motion to Quash Service of Summons on John South and Iain Calder, dated on or about May 28, 1981, and filed on May 28, 1981.

6. Declaration of Paul S. Ablon in Support of Opposition to Quash Service of Summons on John South and Iain Calder, dated on or about May 21, 1981 and filed on May 28, 1981;

7. Supplemental Memorandum in Support of Motion to Quash Service on John South and Iain Calder, dated July 15, 1981, and filed with this Court approximately July 15, 1981;

8. Supplemental Points and Authorities in Opposition to Motion to Quash Service of Summons on John South and Iain Calder, dated July 15, 1981, filed on or about July 15, 1981;

9. Attachments to Supplemental Points and Authorities in Opposition to Motion to Quash Service of Summons on John South and Iain Calder, filed concurrently with Supplemental Points and Authorities in Opposition to Motion to Quash Service of Summons on John South and Iain Calder, dated July 15, 1981, filed on or about July 15, 1981;

10. Reply of John South and Iain Calder to Plaintiffs' Supplemental Points and Authorities, dated July 28, 1981, and filed on or about July 29, 1981;

11. Plaintiffs' reply to Defendants' Supplemental Memorandum in Support of Motion to Quash Service of Summons on John South and Iain Calder, dated July 29, 1981, and filed on or about July 29, 1981;

12. Further Declaration of Paul S. Ablon in Support of Opposition to the Motion of Defendants, John South and Iain Calder, to Quash Service of process dated July 31, 1981, and filed with this court on or about July 31, 1981;

13. Proofs of Service re Further Declaration of Paul S. Ablon In Support of Opposition To Defendants John South and Iain Calder's Motion to Quash Service of Summons filed on or about August 5, 1981;

14. Minute Order of this Court, The Honorable Eli Chernow, Department 80, dated on or about June 2, 1981, relating to the Motion of the Defendants, John South and

Iain Calder, to Quash Service of Summons and Complaint;

15. Minute Order of this Court, The Honorable Eli Chernow, Department 80, dated on or about August 5, 1981, relating to the Motion of Defendants, John South and Iain Calder, to Quash Service of Summons and Complaint;

16. Minute Order of this Court, The Honorable Eli Chernow, Department 80, entered in the Minutes on October 2, 1981, granting the Motion of Defendants, John South and Iain Calder, to Quash Service of Summons and Complaint;

17. The Memorandum of Decision of The Honorable Eli Chernow, in connection with the Motions of Defendants, John South and Iain Calder, to Quash Service of Summons and Complaint, filed with this Court on October 2, 1981, and dated that same date.

NOTICE IS FURTHER GIVEN that Plaintiffs hereby request that a Reporter's Transcript of the proceedings on August 5, 1981, be prepared for the purpose of accompanying the foregoing as the record on appeal.

Dated: October 26, 1981

HAYES & HUME,
A Professional Corporation

By: /s/ Paul S. Ablon
PAUL S. ABLON, ESQ.
Attorneys for Plaintiffs,
SHIRLEY JONES and
MARTY INGELS

IN THE COURT OF APPEAL
SECOND APPELLATE DISTRICT
STATE OF CALIFORNIA

SHIRLEY JONES and MARTY INGELS,
Plaintiffs and Appellants,

v.

IAIN CALDER and JOHN SOUTH,
Defendants and Respondents.

Appeal from
Superior Court for the County of Los Angeles
Honorable Eli Chernow, Judge

BRIEF FOR RESPONDENTS

• • • •

[Pp. 22-23, 28]

. . . Individual employees in another state neither distribute a corporate employer's products nor derive direct profit from the sale of the products. They do not personally avail themselves of the privilege of conducting activities in the forum. *Marra* v. *Shea*, *supra*;[21] *Kipperman* v. *McCone*, 422 F. Supp. 860, 874 (N.D. Cal. 1976). Moreover, the employee, unlike the corporation, cannot structure his conduct to avoid jurisdiction in a

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[21] The court in *Marra* explained:

"Those cases in which this test have been met generally have involved products manufactured for distribution and sale, often on a national basis, and therefore satisfaction of the "purposefully avails itself" test is more readily inferred. *In sum, it would appear that this basis for personal jurisdiction is more applicable to corporate or commercial business defendants than to individual persons.*" 321 F. Supp. at 1146 n.14 (emphasis supplied).

distant forum. Thus, to interpret § 410.10 to hold an employee subject to jurisdiction on the basis of "effects" caused by the corporation, where the employee cannot choose to stop marketing the corporate product in the forum, would deny due process. *World-Wide Volkswagen Corp.* v. *Woodson*, *supra*, 444 U.S. at 97; *cf.* Brilmayer, *How Contacts Count: Due Process Limitations on State Court Jurisdiction*, 1980 SUP. COURT REV. 77, 92-96.

When an employee does personally engage in a persistent course of conduct in the forum or personally derives substantial revenue there, personal jurisdiction may possibly be exercised. But without such indicia of "purposeful activity" by the employee in a personal capacity, "problems of constitutional magnitude" arise. *Merkel Associates, Inc.* v. *Bellofram Corp.*, 437 F. Supp. 612, 619 (W.D.N.Y. 1977). The Supreme Court of the United States made this very clear in *Shaffer* v. *Heitner*, *supra*, where it explained:

> "The differences between individuals and corporations may, of course, lead to the conclusion that a given set of circumstances establishes state jurisdiction over one type of defendant but not over the other." 433 U.S. at 204 n.19.

That distinction applies here. While the multistate character of the corporation's enterprise can make it fair to hold the corporation answerable where its products are sold, there is no rationale consistent with fairness or precedent for holding an individual employee answerable nationwide, simply because of his status as an employee.[22]

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[22] This Court has recognized that "jurisdiction could not be asserted over nonresident individuals solely by virtue of their relationship to a foreign corporation engaged in conduct subjecting it to the jurisdiction of the California courts . . . , where the individual defendant's 'sole business activity was as an employee or officer of the corporation.'" *Quattrone* v. *Superior Court*, 44 Cal. App. 3d 296, 118 Cal. Rptr. 548, 555 (2d Dist. 1975), *citing Sheard* v. *Superior Court*, 40 Cal. App. 3d 207, 114 Cal. Rptr. 743 (1st

Were it to be interpreted otherwise, § 410.10 would violate the Due Process Clause of the Fourteenth Amendment.

* * * *

Appellants flatly misstate the law as respects First Amendment considerations in jurisdictional balancing.

Taking first the federal cases, it is abundantly established that the Supreme Court of the United States routinely considers substantive policy aspects of many different kinds in weighing questions of jurisdiction, and has mandated that this be done. In *Kulko* v. *Superior Court*, *supra*, for example, the Supreme Court in rejecting an assertion of extraterritorial jurisdiction based on a child's intermittent visits to a local parent noted that as a policy matter, to permit jurisdiction "would discourage parents from entering into possible reasonable visitation agreements," and "would impose an unreasonable burden on family relations." Therefore, the Court concluded, assertion of jurisdiction would be "an unwarranted extension of *International Shoe*." 436 U.S. at 93, 96, 98. The same long-standing attention to policy appears in decisions like *Davis* v. *Farmers Co-operative Equity Co.*, 262 U.S. 312 (1923), in which Mr. Justice Brandeis for the Court held, citing the policy of the Commerce Clause, that the burden on interstate commerce would be too great if interstate railroads were subjected to jurisdiction in states where they merely solicited business.[25]

Dist. 1974); *Arnesen* v. *Raymond Lee Organization, Inc.*, 31 Cal. App. 3d 991, 107 Cal. Rptr. 744 (2d Dist. 1973). Likewise, the Ninth Circuit has held that "a corporate officer who has contact with a forum only with regard to the performance of his official duties is not subject to personal jurisdiction in that forum." *Forsythe* v. *Overmyer*, 576 F.2d 779, 783-84 (9th Cir.), *cert. denied*, 439 U.S. 864 (1978); *Chem Lab Products, Inc.* v. *Stepanek*, 554 F.2d 371 (9th Cir. 1977).

* * * *

[25] By parity of reasoning, to subject respondents to extraterritorial jurisdiction in the circumstances of record here would also put an unconstitutional burden on interstate commerce.

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF
THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION ONE

2 Civil No. 65403

(Super.Ct.No. C-305009)

SHIRLEY JONES, *et al.*,
Plaintiffs and Appellants,

v.

IAIN CALDER, *et al.*,
Defendants and Respondents.

Filed Dec. 15, 1982

APPEAL from an order of the Superior Court of Los Angeles County. Eli Chernow, Judge. Reversed.

Hayes & Hume, Paul S. Ablon and Richard P. Towne for Plaintiffs and Appellants.

Williams & Connolly, John G. Kester, F. Lane Heard, Selvin & Weiner and Paul P. Selvin for Defendants and Respondents.

Plaintiffs appeal from an order granting motion to quash out-of-state service of process [1] upon two of the defendants in an action to recover compensatory and punitive damages for libel, invasion of privacy and intentional infliction of emotional distress.

The verified complaint alleges: Defendant National Enquirer, Inc. is a Florida corporation transacting business in California; it publishes the National Enquirer, a weekly periodical of national circulation. Defendant Iain

[1] The order is appealable. (Code Civ. Proc., § 904.1, subd. (c)).

Calder is the editor of the periodical. Defendant John South is a writer employed by the corporate defendant. At all times mentioned, Calder and South acted in the scope of their employment and also acted "by virtue of their own motives as individuals." In the October 9, 1979, issue of the National Enquirer defendants printed and published an untrue and libelous article concerning plaintiffs, Shirley Jones and Marty Ingels.[2] That issue was sold and distributed in the County of Los Angeles, where plaintiffs are well known and enjoy good names and reputations both personally and in their occupations as professional entertainers. In making said publication defendants acted maliciously and with intent to injure, defame and disgrace plaintiffs, place them in a false light, and cause them to suffer humiliation and emotional and physical distress. In their actions directed toward plaintiffs, both before and after publication of said article, defendants caused plaintiffs to suffer great emotional distress. Defendants failed to comply with plaintiffs' demand for publication of a retraction of the defamatory article.

Calder and South are residents of Florida and process was served on them in Florida by mail (Code Civ. Proc., §§ 415.30, 415.40). They appeared specially and moved to quash service of the summons on the ground that the court lacked personal jurisdiction over them.[3] (Code Civ. Proc., § 418.10.) The affidavits of Calder and South in support of the motion state that each is employed by National Enquirer, Inc.—Calder as its president and editor, and South as a reporter; each has his place of business at Enquirer headquarters, located in Florida; neither Calder nor South has ever had an office or place of business in California, or engaged in business there; neither has ever

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[2] Attached to the complaint and incorporated therein by reference is a copy of the article. South's name appears at the end of the article, indicating that he is its author.

[3] Defendant National Enquirer, Inc. did not contest the court's jurisdiction over it, and has answered the complaint.

owned assets, obtained employment or had a bank account in California; Calder performed editorial services in Florida in connection with the article which is the subject of plaintiffs' lawsuit, but did not otherwise participate in the preparation of the article; South performed reporting services in Florida in connection with the subject article; in performing their respective services relating to that article, neither Calder nor South was acting in his personal capacity and neither traveled to California.

In opposition to the motion to quash, plaintiffs filed declarations and excerpts from depositions showing: As president and editor of National Enquirer, Inc., Calder's duties "are to oversee just about every function of the Enquirer . . . to oversee the whole editorial process." Prior to the publication of the allegedly defamatory article concerning plaintiffs, Calder reviewed its evaluation and saw the final page proof form; after publication he determined not to print a retraction. In the three or four years preceding publication of that article, Calder traveled to California only once; that trip was for pleasure, not on business for the National Enquirer. During the same period, South traveled to California more than 20 times on Enquirer business, staying an average of one to two weeks each time. From 1977 to October 1979 Jane Chesis, a California resident, was employed by National Enquirer, Inc. to furnish it with leads for stories. Chesis introduced South to one Bobby Lucas. A year before the subject article was published, South met with Lucas in California on two occasions to discuss possible articles for the Enquirer; during the same period South had 20-25 telephone conversations with Lucas. Lucas provided information for some of the material which appeared in the subject article. By telephone Chesis (in California) supplied South (in Florida) with other material contained in that article. Two or three weeks before the article was published, South telephoned plaintiff Ingels at his home in California and read the article to him; as a result Ingels became emotionally upset and physically ill.

In granting the motion to quash, the trial court (in its memorandum of decision) stated: "From the record in this case, it appears that neither South nor Calder maintained any residence or business office within California. Editor Calder did not enter California nor even make telephone calls into the state during his work on the Ingels article. Reporter South made a few telephone calls into California, including one in which he read the substance of the article to plaintiff Ingels shortly before its publication. In addition, Reporter Smith visited California at least once for purposes relating to the article. The totality of such contacts, in this Court's view, are [*sic*] insubstantial." The Court further determined that in a defamation action such as this, where freedom of the press is involved, "First Amendment considerations should be weighed in the balance of fundamental fairness in resolving whether a state can compel a nonresident defendant to appear and defend an action." The court concluded that such considerations necessitated the granting of the motion to quash.

Plaintiffs contend that the trial court improperly applied a special First Amendment test in determining that the court may not assume jurisdiction over defendants Calder and South. We agree. As authority for its application of such a test, the court cited *New York Times Co.* v. *Connor* (5th Cir. 1966) 365 F.2d 567, wherein it was held that "First Amendment considerations surrounding the law of libel require a greater showing of contact to satisfy the due process clause than is necessary in asserting jurisdiction over other types of tortious activity." (P. 572. See also *Rebozo* v. *Washington Post Co.* (5th Cir. 1975) 515 F.2d 1208, 1214-1215; *Edwards* v. *Associated Press* (5th Cir. 1975) 512 F.2d 258, 266.) This view has been rejected in other federal courts (including those of the Ninth Circuit), which conclude that First Amendment protections are better considered in the context of substantive defenses on the merits than at the initial jurisdictional stage of a defamation proceeding. (*Church of*

Scientology of California v. *Adams* (9th Cir. 1978) 584 F.2d 893, 899; *Anselmi* v. *Denver Post, Inc.* (10th Cir. 1977) 552 F.2d 316, 324, cert. den., 429 U.S. 1041 [50 L.Ed.2d 753, 97 S.Ct. 170].) And in California it has been held that newspapers do not enjoy a special preference under the First Amendment in deciding in personam jurisdiction questions dealing with the publication of allegedly tortious material. (*Sipple* v. *Des Moines Register & Tribune Co.* (1978) 82 Cal.App.3d 143, 148-150 (hg. den.).) After discussing the concurring opinion of Chief Justice Burger in *First National Bank of Boston* v. *Bellotti* (1978) 435 U.S. 765, 796-802 [55 L.Ed.2d 707, 730-734, 98 S.Ct. 1407, 1426-1439], the *Sipple* court stated: "The conclusion of the Chief Justice that the First Amendment fails to give special protection to the 'institutional press' under a freedom of the press theory parallels the finding that it also fails to give special protection from jurisdiction to defendants whose tortious acts performed out of state arise from exercise of rights arguably protected by the First Amendment. Though the *Connor* decision, relied on by respondents, appears to give such protection, that decision 'has been widely criticized and disregarded [citations], and appears now to have been discarded by the Fifth Circuit itself [citations].' (*David* v. *National Lampoon, Inc.* (D.S.C. 1977) 432 F. Supp. 1097, 1100; accord *Anselmi* v. *Denver Post, Inc.* (10th Cir. 1977) 552 F.2d 316, 324.)" (82 Cal.App.3d at p. 149.)

Inasmuch as defendants Calder and South have no special First Amendment privilege by virtue of their status as employees of the publisher of the allegedly defamatory article herein, the right of a California court to assert personal jurisdiction over them must be determined in accord with traditional principles unaffected by First Amendment considerations.

Code of Civil Procedure section 410.10 permits California courts to exercise jurisdiction over nonresidents "on

any basis not inconsistent with the Constitution of this state or of the United States." This statute "manifests an intent to exercise the broadest possible jurisdiction. The constitutional perimeters of this jurisdiction are found in the decisions of the United States Supreme Court." (*Michigan Nat. Bank* v. *Superior Court* (1972) 23 Cal. App.3d 1, 6.) As a general constitutional principle, a court may exercise personal jurisdiction over a nonresident individual so long as he has such minimal contacts with the state that ". . . the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" (*Internat. Shoe Co.* v. *Washington* (1945) 326 U.S. 310, 316-317 [90 L.Ed. 95, 101-103, 66 S. Ct. 154]; *Sibley* v. *Superior Court* (1976) 16 Cal.3d 442, 445.) "If a nonresident defendant's activities may be described as 'extensive or wide-ranging' [citation] or 'substantial . . . continuous and systematic' [citation], there is a constitutionally sufficient relationship to warrant jurisdiction for all causes of action asserted against him. In such circumstances, it is not necessary that the specific cause of action alleged be connected with the defendant's business relationship to the forum. [¶] If, however, the defendant's activities in the forum are not so pervasive as to justify the exercise of general jurisdiction over him, then jurisdiction depends upon the quality and nature of his activity in the forum in relation to the particular cause of action. . . . The crucial inquiry concerns the character of defendant's activity in the forum, whether the cause of action arises out of or has a substantial connection with that activity, and upon the balancing of the convenience of the parties and the interests of the state in assuming jurisdiction. [Citations.]" (*Cornelison* v. *Chaney* (1976) 16 Cal.3d 143, 147-148.)

Applying these rules to the instant case, it is clear that California does not have general jurisdiction over defendants Calder and South. Neither defendant has ever owned assets or bank accounts in California, or engaged in business or been employed there. It may not be said

that defendants' activities in California are extensive, wide-ranging, substantial, continuous or systematic. In *Cornelison, supra*, 16 Cal.3d 143, the court considered facts which revealed that the defendant had made 20 trips a year into California over a period of 7 years to deliver and obtain goods, had an independent contractor relationship with local brokers, and was licensed to haul freight by the California Public Utilities Commission; the court failed to find in these facts a basis for general jurisdiction by California courts. If general jurisdiction did not there exist, clearly there can be no general jurisdiction in the present case as a result of defendants' contacts with California consisting of occasional trips to that state. We now proceed to an assessment of the relationship between defendants' activities in California and the causes of action alleged herein.

As the trial court observed, defendant Calder did not enter California or even make telephone calls into the state in connection with his role in the preparation of the subject article; all of his acts with reference to that article apparently were performed in Florida. However, the requisite minimum contacts of a defendant with the forum state need not arise from his physical activity in that state. (*St Joe Paper Co.* v. *Superior Court* (1981) 120 Cal.App.3d 991, 997.) "Every state has a natural interest in effects occurring within its territory, even if the act causing those effects was committed elsewhere. (See Rest.2d Conf. of Laws, § 37, com. a) . . . [¶] If a defendant commits an act or omission outside the forum state *with the intent* to cause a tortious effect within the state, the state may exercise jurisdiction over the defendant as to any cause of action arising from the effects. *The intent to cause tortious injury within the state when the tort actually occurs is generally a sufficient basis, without more, for the exercise of in personam jurisdiction.* 'The act may have been done with the intention of causing effects in the state. If so, the state may exercise the same judicial jurisdiction over the actor, or

over the one who caused the act to be done, as to causes of action arising from these effects as it could have exercised if these effects had resulted from an act done within its territory.' (Rest.2d Conf. of Law, § 37, com. a; see § 36, subd. (1).)" (*Kaiser Aetna* v. *Deal* (1978) 86 Cal.App.3d 896, 902; latter emphasis added. See also Judicial Council Comment, 14 West's Anno. Code Civ. Proc., p. 473; *Quattrone* v. *Superior Court* (1975) 44 Cal.App. 3d 296, 303-304). The complaint herein alleges that defendants, in publishing the defamatory article, acted maliciously and with the intent to injure plaintiffs. The general rule for defamation is that everyone who takes a responsible part in the publication is liable for the defamation. (*McGuire* v. *Brightman* (1978) 79 Cal.App.3d 776, 789.) For the purpose of determining whether a California court may assume jurisdiction over Calder in this lawsuit, it must be presumed that Calder, in participating in the publication of the article as its editor, intended to cause injury to plaintiffs in California where they reside; such injury in fact occurred. Accordingly, a valid basis exists for California's exercise of personal jurisdiction over Calder with respect to the causes of action alleged herein.

In support of a contrary conclusion, defendants cite *Sibley* v. *Superior Court*, *supra*, 16 Cal.3d 442, wherein it is stated (p. 446): "The mere causing of an 'effect' in California . . . is not necessarily sufficient to afford a constitutional basis for jurisdiction; notwithstanding this 'effect,' the imposition of jurisdiction may be unreasonable." *Sibley* was a breach of contract action and it was there held that despite defendant's relationship to California, and the effects thereby caused in California, the exercise of jurisdiction was unreasonable because it did not appear that defendant purposefully availed himself of the privilege of conducting business in California or of the benefits and protections of California laws, that defendant anticipated any economic benefit as a result of his dealings in this state, or that there were any

aspects of the transaction which were subject to special regulation in California. However, such conditions need not be met where jurisdiction is predicated on an act or omission committed outside the forum state with the intent to cause a tortious effect within the state. Thus, in *Abbot Power Corp.* v. *Overhead Electric Co.* (1976) 60 Cal.App.3d 272, an action for intentionally inducing breach of contract, the court, after discussing *Sibley* stated: "There is no reason to require any special circumstances where, as here, the conduct charged is an intentional and malicious tort against a forum-based corporation. The fundamental question is whether the exercise of jurisdiction is fair and reasonable. It is just as reasonable and fair, maybe more so, to subject a defendant to the jurisdiction of a state when it engages in conduct which is purposefully intended to harm a resident of that state as it is to subject a defendant to the jurisdiction of a state when the defendant has sought or anticipated economic benefit in that state from its out-of-state activities." (Pp. 281-282; fn. omitted.)

The foregoing analysis likewise applies to defendant South insofar as his writing and reporting activities in connection with the subject article were performed in Florida. Moreover, apart from the tortious effect which his Florida activities produced in California, South had other contacts with California sufficient to permit the courts of that state to assume personal jurisdiction over him in this action. The record shows that he gathered information appearing in the allegedly defamatory article in the course of at least one visit made by him to California and telephone calls which he made to the state. Expressed differently, the material for the article had its source in California and South tapped that source both by telephone and by personal visits to California. In addition, before the article was published South telephoned plaintiff Ingels at his residence in California and read to him the substance of the article, thereby causing him to suffer emotional distress accompanied by physical illness.

In *Abbot Power Corp.* v. *Overhead Electric Co., supra*, 60 Cal.App.3d 272, it was held that nonresident defendants' sending of letters into California which interfered with plaintiff's contractual relationship constituted the doing of a significant act in California for purposes of exercising jurisdiction over defendants. (P. 279.) By the same token South's telephone call to Ingels, which call was instrumental in the commission of one of the torts of which plaintiffs complain, constituted the doing of a significant act in California. For all of the above reasons, we conclude that South had sufficient minimum contacts with the State of California in respect to the causes of action at issue to justify assumption of jurisdiction by a California court over him in this lawsuit.

Defendants argue that California may not assume jurisdiction over them because they performed the allegedly tortious acts in their respective capacities as officer and employee of the corporate defendant, not as individuals.[4] In support of this contention defendants cite *Bulova Watch Co., Inc.* v. *K. Hattori & Co., Ltd.* (E.D.N.Y. 1981) 508 F. Supp. 1322, wherein it is stated: "Under the 'fiduciary shield' doctrine, the acts of a corporate officer or employee taken in his corporate capacity within the jurisdiction generally do not form the predicate for jurisdiction over him in his individual capacity." (P. 1347. See also *Forsythe* v. *Overmyer* (9th Cir. 1978) 576 F.2d 779, 783-784, cert. den., 439 U.S. 864 [58 L.Ed.2d 174, 99 S.Ct. 188]; *Quattrone* v. *Superior Court, supra*, 44 Cal.App.3d 296, 308.) Defendants' affidavits in support of their motion to quash service of summons state

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[4] In its memorandum of decision, the trial court stated: "It may not be unfair to hold a publisher to account for compensatory and punitive damages in a remote jurisdiction if a sensational story he publishes is false. After all, it is the publisher who balances risk and reward in establishing the character of his publication, and it is the publisher who stands to make substantial profits if he publishes true stories of widespread interest. [¶] It is quite another matter to hold magazine employees to the same accounting. . . ."

that defendants, in performing their services relating to the subject article, were acting on behalf of the National Enquirer, Inc., and not in "a personal capacity." However, as stated in *Donner* v. *Tams-Witmark Music Library, Inc.* (E.D. Pa. 1979) 480 F. Supp. 1229, 1234: "It would be anomalous, and would defeat the purposes of the law creating substantive liability, to permit a corporate officer to shield himself from jurisdiction by means of the corporate entity, when he could not interpose the same shield as a defense against substantive liability. Therefore we hold that Aborn's allegedly tortious conduct in his capacity as president of Tams-Witmark may be considered to determine whether the court has jurisdiction over Aborn as an individual defendant." Unlike Calder, South is an employee rather than an officer of the corporate defendant. That fact, however, does not prevent the assumption of jurisdiction over him in this action. Thus, in *McGuire* v. *Brightman, supra*, 79 Cal.App.3d 776, the court rejected defendant's argument that jurisdiction over him was improper because he was a reporter, not the publisher of the defamatory article. Said the court: "Appellant has cited no authority for any contention that he may have that an author is not a proper defendant in an action for libel printed in a periodical. To the contrary, the general rule for defamation is that everyone who takes a responsible part in the publication is liable for the defamation. [Citation.] And even if appellant could somehow avoid liability for his acts for [the publisher], it would not follow that jurisdiction could not be maintained based upon those acts. Thus, it seems clear that appellant's status as the author instead of the publisher does not create a legal distinction invalidating jurisdiction over him. [Citations.]" (79 Cal. App.3d at p. 789.)

Once it is established that the defendant has the required minimum contacts in the forum state and that the cause of action is sufficiently connected with these mini-

mum contacts, the propriety of an assumption of jurisdiction depends upon a balancing of the inconvenience to the defendant in having to defend himself in the forum state against both the interest of the plaintiff in suing locally and the interrelated interest of the state in assuming jurisdiction. (*Buckeye Boiler Co.* v. *Superior Court* (1969) 71 Cal.2d 893, 899.) Some of the factors involved in this balancing process include the relative availability of evidence and the burden of defense and prosecution in one place rather than another; the interest of a state in providing a forum for its residents; the ease of access to an alternative forum; the avoidance of a multiplicity of suits and conflicting adjudications; and the extent to which the cause of action arose out of defendant's local activities. (*Cornelison* v. *Chaney*, *supra*, 16 Cal. 3d 143, 151; *Fisher Governor Co.* v. *Superior Court* (1959) 53 Cal.2d 222, 225-226.)

In the present case, much of the evidence presumably is in California inasmuch as that is where the causes of action arose, where plaintiffs reside and pursue their careers, and where they are most seriously damaged by the alleged torts; California also is the residence of two of the persons (Chesis and Lucas) who furnished material appearing in the defamatory article published by defendants. The California Supreme Court "has repeatedly emphasized that this state and its residents and taxpayers have a substantial interest in providing a forum where a resident may seek whatever redress is due him. [Citations.] The state also has an interest from the point of view of orderly administration of the laws in assuming juridiction in cases where most of the evidence is within its borders and where a refusal to take jurisdiction may result in multiple litigation. [Fn. omitted.]" (*Hall* v. *University of Nevada* (1972) 8 Cal.3d 522, 525-526.) In their respective capacities as president-editor and reporter-writer for the National Enquirer, Calder and South most likely will be required to appear as wit-

nesses and thus will be present in California regardless of whether a California court assumes jurisdiction over them as defendants. Plaintiff sued National Enquirer, Inc. as well as Calder and South; the corporate defendant has not contested the California court's jurisdiction over it and the action is proceeding against it. If California does not assume jurisdiction over Calder and South plaintiffs may sue them in Florida, resulting in multiple litigation and possible conflicting adjudications. Finally, the torts of which South is accused relate directly to, and arise out of, his local conduct. Under these circumstances, it is fair and reasonable to subject defendants Calder and South to the jurisdiction of the California courts.

The order granting motion to quash service of process is reversed.

CERTIFIED FOR PUBLICATION

LILLIE, J.

We concur:

SPENCER, P.J.

DALSIMER, J.

IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA

SHIRLEY JONES and MARTY INGELS,
Appellants,

v.

IAIN CALDER and JOHN SOUTH,
Petitioners and Respondents.

Appeal from
Superior Court for the County of Los Angeles
Honorable Eli Chernow, Judge

RESPONDENTS' PETITION FOR HEARING

To the Honorable Chief Justice and to the Honorable Associate Justices of the Supreme Court of the State of California:

Petitioners respectfully pray that this Court grant a hearing of this cause for the reasons stated herein.

ISSUES PRESENTED

On December 15, 1982, the Court of Appeal for the Second District, Division One, reversed the Superior Court's order granting the motion of Florida Respondents Iain Calder and John South to quash service for lack of personal jurisdiction. In holding that Calder and South were subject to California's jurisdiction in this case, the Court of Appeal extended the reach of this state's "long-

arm" statute, Code of Civil Procedure § 410.10, beyond that exercise in any previous case—and beyond the limits imposed by due process. Its decision conflicts with prior holdings of other courts of appeal and of this Court. As now interpreted by the Court of Appeal in this case, § 410.10 violates the due process and free speech guarantees of the California and United States Constitutions, and also unconstitutionally burdens interstate commerce. A hearing in this Court therefore is necessary to end the conflict and to resolve the following important issues:

1. In a suit against two Florida employees of a Florida publishing corporation, may effects caused in California by the publishing corporation be the basis for obtaining extraterritorial personal jurisdiction over the two employees?

2. In determining whether the assertion of extraterritorial jurisdiction offends "traditional notions of fair play and substantial justice," should First Amendment considerations be weighed along with others in deciding whether there is sufficient basis for extraterritorial personal jurisdiction over a Florida editor and reporter?

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Feb. 10, 1983

I have this day filed Order HEARING DENIED.

In re: 2 Civ. *No.* 65403

JONES & INGELS

vs.

CALDER & SOUTH

Respectfully,
Clerk

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COURT OF APPEAL
SECOND DIST.
FILED
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CLAY ROBBINS JR.
Clerk

IN THE COURT OF APPEAL
SECOND APPELLATE DISTRICT
STATE OF CALIFORNIA

Civil No. 65403

SHIRLEY JONES and MARTY INGELS,
Plaintiffs and Appellants,

v.

IAIN CALDER and JOHN SOUTH,
Defendants and Respondents.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Iain Calder and John South, Respondents herein, hereby appeal to the Supreme Court

of the United States from the final judgment of this Court entered December 15, 1982, that reversed the order of the Superior Court of the State of California for the County of Los Angeles entered October 2, 1981, quashing service of process on Respondents.

This appeal is taken pursuant to 28 U.S.C. § 1257(2).

WILLIAMS & CONNOLLY

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February 16, 1983

SUPREME COURT OF THE UNITED STATES

No. 82-1401

IAIN CALDER and JOHN SOUTH,
Appellants,

v.

SHIRLEY JONES and MARTY INGELS

APPEAL from the Court of Appeal of California, Second Appellate District.

The statement of jurisdiction in this case having been submitted and considered by the Court, further consideration of the question of jurisdiction is postponed to the hearing of the case on the merits.

April 18, 1983